

THE  
PRACTICE  
OF THE  
**Court of Chancery.**

ORIGINALLY PUBLISHED  
BY JOSEPH HARRISON, OF LINCOLN'S-INN, ESQ.

AND ENLARGED  
BY JOHN GRIFFITH WILLIAMS, ESQ.  
BARRISTER AT LAW.

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*The Eighth Edition, with considerable Additions :*  
INCLUDING  
THE PROCEEDINGS BEFORE THE MASTER  
On Sales of Estates, Maintenance for Infants,  
the Appointment of a Receiver, &c.  
AND SEVERAL NEW PRECEDENTS,  
By *WILMOT PARKER*, SOLICITOR.

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IN TWO VOLUMES.

VOL. II.

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A  
T A B L E  
OF THE  
C O N T E N T S  
OF THE  
SECOND VOLUME.

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THE  
PRACTICE  
OF THE  
High Court of Chancery.

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CHAPTER I.

*Of Interlocutory Matters;—Under which general Head, will be considered,—Affidavits,—Petitions,—Motions,—Deeds and Writings,—References,—Sales before the Master,—Maintenance for Infants,—Appointment of a Receiver,—Reports,—Exceptions to Reports,—Further Directions,—Issue at Law,—Equity reserved,—Awards,—Partition,—Dower,—Proving Will of Lands,—Foreclosure,—Conveyance by Infant Mortgagee or Trustee,—Certificates,—Orders,—Paying and Receiving Money in Court,—Writs of Certiorari,—Procedendo,—Ne exeat Regno,—de Homine Replegeando,—Habeas Corpus,—Supplicavit,—Injunctions :—And first,*

*Of Affidavits.*

**A**N affidavit, generally speaking, is a deposition in writing, sworn before some person who hath authority to administer such oath: but the affidavits here treated of, are used for certifying the service of process or orders, or something relating to them, or to the proceedings in the cause; and generally, where any motion or petition is made that is not of course, an affidavit of the facts alleged is necessary; for this purpose the affidavit is reduced into writing, and serves as a deposition to the fact therein stated and sworn to. *Tolk. 32. 3 Px. Alm. 17 Com. Sol. 45.*

Great care and exactness should be observed in drawing affidavits; they must be fairly ingrossed on treble sixpenny stamp paper,



paper, without blots, erasures, or interlineations of any words of substance, otherwise the master may refuse to accept the same; or, if he accepts them, the *register of affidavits*, or his deputy, may refuse to file them, and no use shall be made thereof in this court.

Affidavits are sworn before a master in Chancery at the public office, between the hours of ten and two in the forenoon, and six and eight in the afternoon, or at a master's chambers, or at his house: in the country they are sworn before a master extraordinary; but, in the latter case, the place where the affidavit is sworn must be twenty miles from *London*; and such master, at the foot of every affidavit he takes, must express the name of the town and county where the affidavit is taken, or it shall not be held authentic or filed. *Ord. Chanc. 15. 18. 92.*

That affidavits may be reverently and knowingly sworn, the masters are to administer the oath themselves; and where they see the party rash, or ignorant, to give him some conscionable admonition of his duty, and to make him understand the matter contained in his affidavit; and that the party swearing the affidavit read the same over, or have it read in his presence, and subscribe his christian and surname, or mark, thereto, before the same be certified or signed by the master. *Ord. Chanc. 148.*

The affidavit must be true in substance, with all necessary circumstances of time, place, manner, and other material incidents; and it must also be sufficient to sustain the case made by the motion, or petition, of which it is the ground-work; so it should be pertinent and material, without needless tautology and impertinent matter, and other prolixities; scandalous and irrelevant matter should be carefully avoided, otherwise it may be expunged by reference to a master, and probably at the costs of the party filing the same, or of the solicitor who drew it. *Ord. Chan. 146.*

The true place of residence, description, and addition, of every person swearing an affidavit, must be inserted therein; and it ought to set forth the matter of fact only which the party intends to prove thereby, and not any of the merits of the cause; for, by ancient rule, no affidavit shall be admitted or taken, tending to the proof or disproof of the title or matter in question, or touching the merits of the cause: nor shall any such matter be colourably inserted in any affidavit of service of process. *1 Atk.*

139.

Affidavits must be filed in due and convenient time after swearing; and before use be made thereof in court, as well to prevent trouble to the other party, by going often to enquire for them, as that he may have time by his counsel to inform the court of any just exception he may have against the same; but affidavits of serving *subpoenas* to hear judgment, are seldom filed till some short time before the hearing; for, if the parties attend at the hearing,

hearing, the affidavit need not be filed. *Toth. 32. Ord. Chan. 19. 93.*

If any affidavit be made to ground a motion upon, it ought to be filed so long before the motion, as that the adverse party may have time to take a copy, if the party making the affidavit expects his motion to be made absolute; and all affidavits before they are read in court, or made use of to ground any orders, writs, processes, or proceedings, shall be filed in the affidavit office, and attested by a true copy thereof, under the hand of the register or master of the affidavit office, or his deputy; or for expedition, the copy, upon treble sixpenny stamp paper, may be made and carried to the affidavit office, which the deputy will mark, and file the original; and, until the original is filed, the registers, sworn clerks in Chancery, or other officers of the court, shall not make, pass, or enter, any orders, or issue any attachments, commissions, or other process founded upon such affidavits: but all affidavits belonging to the *Supplicavit* office, and the petty bag office, and also those touching lunaticks and bankrupts, are not filed in the affidavit office, but in the several offices where such matters are transacted. *1 Px. Alm. 30. Ord. Chan. 8. 18. 91.*

Every affidavit of the service of process, or of an order, should not only be true, but, to make it of use, it is necessary that a good service thereof should be proved; for, if the plaintiff's name, the court, the return of the *subpoena*, the manner of service, or any thing material, be omitted in the affidavit; no attachment must issue upon it for non-appearance: and so of the service of other process and of orders; for, until a due service be shewn, no contempt appears to the court. *Prac. Reg. 4. Ibid.*

In an affidavit of notice, it is not enough to say notice was given, or the copy delivered to the party's clerk in court; but his name must be expressly mentioned, that it may appear with certainty to whom notice was given; and it must also say notice in writing, or words to that effect; and if he, who serves the notice, does not know with certainty that the person on whom it is served is the party's clerk in court, he must say, "as he is credibly informed and verily believes," first taking care that he receives information accordingly; but, if the notice be left at the clerk's seat, with his agent or clerk; such agent or clerk need not be particularly named. *1 Px. Alm. 30.*

Where the court directs that affidavits shall be filed on both sides within a certain limited time, and some of the affidavits on one side happen not to be filed on that day, it is the established rule of the court not to enlarge the order farther, that the other side may be required to give an answer to those affidavits, for the neglecting party is concluded. *Prac. Reg. 5.*

Where any motion or petition is grounded upon an affidavit of having material witnesses to examine in a cause, whereby to gain longer time; the affidavit must contain the names of such witnesses, which, the party is advised, are very material witnesses to be examined for him in the cause, and without whose testimony he is advised he cannot safely proceed to the hearing of the cause, to the end that the court may judge of them, and prevent all unnecessary delays: *Sed vid.* 1 *Vern.* 334, where it is said not to be sufficient in an affidavit to say such a person is a material witness, and beyond sea, without mentioning the point to which he can materially depose. *Barnard's Rep.* 402.

It is sufficient to file an affidavit any time before, or on the day an attachment is made out, but not afterwards: *Sed vid.* 1 *Vern.* 172, where it is laid down as regular, if filed before the return of the attachment.

All affidavits must be written on treble sixpenny stamp paper; and so must a pauper's affidavit before he be admitted as such; but, after admittance, all affidavits made on behalf of a pauper are without stamps: to all affidavits sworn in this court, the deponent must sign his name or mark on the left-hand side of the affidavit, and the jurat on the right side; and swearing an affidavit in a cause is one shilling; if no suit existing, one shilling and sixpence.

It is a general rule, that whoever produces the affidavit of a person to contradict a former made by that person, should produce him in court, a personal examination being required.

*Note*, not swearing expressly so words spoken, but adding "or to that effect," is a proper caution in an affidavit; and affidavits have been often objected to for want of those words. 2 *Vez.* 26.

In a case where the petitioner had taken all the affidavits before himself, notwithstanding he had been solicitor throughout the cause; the petition was dismissed with costs to come out of the pocket of the solicitor, who had thus very improperly taken the affidavits: at common law it is always objected to, and discountenanced, and equally so in equity, from the inconvenience that would arise if such a practice was suffered. 2 *Atk.* 60. 3 *Atk.* 7. 72.

In all cases of commitment there must be an affidavit of service. 3 *Atk.* 619.

On contradictory affidavits of the same person, a personal examination required. The general rule is, that whoever produces the affidavit of a person to contradict a former made by that person should produce him in court. 2 *Vez.* 26.

Affidavit being *evafive*, party put to swear again. 4 *Vin. Abr.* 440. *pl.* 10.

A peer as to all affidavits, or where he is a witness must be upon oath. 1 *P. Will.* 146.



*Affidavit that the plaintiff hath not the deeds inquired after, to annex to bill of discovery, before it be filed.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*A. B.* the plaintiff in this cause maketh oath, that he this deponent hath not, nor to the best of his knowledge, remembrance, or belief, ever had, all or any of the deeds, evidences, and writings, relating to the estate in question in this cause, and which are mentioned in this deponent's bill exhibited in this honourable court against the said defendant; nor doth this deponent know where the said deeds, evidences, and writings, or any of them, now are, unless they be in the custody or power of the said defendant.

*A. B.*

Sworn, &c.

*Affidavit to be made by the complainant on bringing a bill of Interpleader.*

Between *A. B.* plaintiff,  
*C. D.* and *E. F.* defendants.

*A. B.* the complainant maketh oath, that this bill is not exhibited by the consent, knowledge, or combination, of either of the defendants in the bill mentioned, but merely of his own free-will for relief in this honourable court.

*A. B.*

Sworn, &c.

*Affidavit that the plaintiff had writings, but hath lost them, proper to be annexed to a bill.*

Between *A. B.* ——— complainant,  
*C. D. E. F. G. H.* } defendants.  
and *J. K.*

**T**HE said complainant maketh oath, that some time since, to wit, on, &c. last, the writings now sued for in this cause were in his this deponent's custody and possession; but since the said time he this deponent hath accidentally lost them: And this deponent farther saith, that he doth not know where the said writings are, unless they are in the hands or custody of the said defendants, some or one of them, or else that the said writings are now or late were in the custody of the said defendant *J. K.* as he is credibly informed and verily believes.

*A. B.*

Sworn, &c.

## AFFIDAVITS.

*Affidavit for a ne exeat regno.*

Between *A. B.* complainant, and  
*C. D.* defendant.

*A. B.* the said complainant maketh oath, that *C. D.* the defendant oweth and now is justly indebted unto him this deponent in the sum, &c. and being thus indebted, the said *C. D.* hath lately threatened and given out that he will speedily leave this kingdom and go beyond sea, whereby this deponent will either lose his said debt, or the same will be very much endangered, and it will be difficult for this deponent to recover the same.

*A. B.*

Sworn, &c.

*Affidavit of waste being admitted,*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*A. B.* the complainant maketh oath, that *C. D.* the defendant in this cause, on, &c. last past, did pull down and destroy part of the house and out-houses at, &c. to which he this deponent hath lawful title, being seised in fee of the said estate and premises in question, as this deponent is advised and believes, and for which he is now prosecuting the defendant; and that the said *C. D.* did also fell and cut down several timber trees upon the lands belonging to the same, and continues to commit other waste and spoil in and upon the said estate of this deponent, to his great loss and damage.

*A. B.*

Sworn, &c.

*Affidavit of seeing creditors subscribe their respective names under a petition to supersede a commission of bankruptcy.*

*C. D.* &c. maketh oath that this deponent did on the ——— day of ——— see [naming the creditors respectively subscribing, who must consist of all the creditors who have proved debts under the commission] severally sign their names to a consent in writing at the foot of a petition of *A. B.* of &c. directed and intended to be preferred to the right honourable the Lord High Chancellor of Great Britain, whereby it is prayed, that the commission of bankruptcy therein mentioned to have been awarded, and then in prosecution against the said *A. B.* might be superseded: And this deponent further saith, that the several names *E. F. G. H.* &c. subscribed to the said petition, signifying their consent to the prayer thereof, are of their own proper hand writing respectively. *Vide Postea* Petitions.

*C. D.*

Sworn, &c.

# AFFIDAVITS.

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## *Affidavit of Poverty.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*A. B.* the complainant (or *C. D.* the defendant) maketh oath, that he is not worth the sum of five pounds in all the world, his just debts being first paid, and his wearing apparel and the matters in question in this cause only excepted.

*A. B.*

Sworn, &c.

*Affidavit to a certificate of a person's being of age.*

May 20, 1767.

*A. B.* (son or daughter) of *A.* and *C. B.* was baptized. The above is a true copy of the register, of (name the parish) witness my hand, this — day of —, 1767.

*E. F.* (Clerk of the Parish.)

In Chancery.

Between, &c.

*D. E.* of, &c. maketh oath, that the abovementioned [*Let the clerk of the parish write the above certificate on a treble sixpenny stamp sheet of paper, and then underwrite the above affidavit, this will save you 2 s. 6 d. for then the certificate will not be an exhibit*] extract, signed by *E. F.* of the parish of — afore-said, is a true copy or extract of the register of the said parish, so far as concerns the baptism of *A. B.* And that he this deponent did on the — day of — examine the said copy or extract, with the said parish register, and that the name *E. F.* set and subscribed thereto, is of the proper hand-writing of the said *E. F.* who set and subscribed his name thereto in this deponent's presence.

*D. E.*

Sworn, &c.

*Affidavit of serving of an order nisi, to make the same absolute.*

In Chancery.

Between *A. B.* and *J. K.* plaintiffs, and  
*C. D.* and *L. R.* defendants.

*D.* clerk to Mr. *R. K.* solicitor for the defendant *C. D.* in this cause, maketh oath, that he this deponent did (the time when) personally serve Mr. *F. D.* with an order of this honourable court, made in this cause (time when same was made), whereby it is ordered, that a report made in this cause by Mr. *Leeds*, one of the masters of this honourable court, bearing date first day of May last, whereby Mr. *J. J.* on the behalf of the said *C. D.* is reported the best purchaser of the premises therein

B 4

mentioned,



mentioned, at the sum of 2000 *l.* and all the matters and things therein contained, do stand ratified and confirmed by the order, authority, and decree of this court, to be observed and performed by all parties thereto, according to the tenor and true meaning thereof, unless the parties concerned, who are many in number, and live remote from each other, their respective clerks in court having notice thereof, should, within eight days after such notice, shew unto this court good cause to the contrary, by delivering to the said Mr. *F. D.* a true copy of the said order, and at the same time shewing him the said order passed and entered: And this deponent further saith, that he did afterwards on the same day, personally serve Mr. *G.* with the said order, by delivering to the said Mr. *G.* a true copy of the said order, and at the same time shewing him the said order: And this deponent further saith, that he did afterwards on the same day, personally serve Mr. *H.* with the same order, by delivering to the said Mr. *H.* a true copy of the said order, and at the same time shewing him the said order, which said Mr. *D.* Mr. *G.* and Mr. *H.* are all the clerks in court for the plaintiffs and defendants in this cause, as this deponent is informed and believes: and this deponent further saith, that he did on the same day personally serve Mr. *N.* who by a former report had been reported the best purchaser of the said premises, with the said order, by delivering to the said Mr. *N.* a true copy thereof, and at the same time shewing him the said original order passed and entered.

Sworn, &c.

*D. D.*

*N.B.* An order *nisi* requires personal service; unless the court substitutes a service upon the clerk in court, upon a suggestion that the defendants are many in number, and live remote from each other.

*Affidavit of service of subpoena to obtain an injunction,*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* and *W. K.* defendants.

*C. B.* of *New Inn*, in the county of *Middlesex*, gentleman, maketh oath, that he this deponent did, on the 22d day of *December* last, deliver a label of *subpœna*, under seal of this honourable court, to Mr. *T. H.* clerk, at his house in *Threadneedle Street*, in the city of *London*, who promised this deponent, that he would deliver the same to his said master, which said Mr. *H.* (as this deponent has been credibly informed and verily believes) is the person made use of by the said defendant *C. D.* in managing his business as his solicitor or attorney at law, and is now actually suing the plaintiff on a note given by him to the said defendant

*C. D.*

**C. D.** at common law, in the name of the other defendant **W. K.** against which the said plaintiff is now seeking relief in this honourable court: And this deponent further saith, that on the same day, he this deponent left the body of the said *subpœna* under the seal as aforesaid, for the said defendant **C. D.** at his late dwelling-house, and last place of settled residence, in Saint *Martin's le Grand*, in the said city of *London* (as this deponent hath been also credibly informed), by delivering the same to a woman, who said she then lived in the said house, and acquainted her with the contents thereof, which said *subpœna* was for the said **C. D.** to appear in this honourable court, at the suit of the said plaintiff, and was returnable immediately.

Sworn, &c.

**C. B.**

*Affidavit of residence of defendant to obtain subpœna returnable immediately.*

In Chancery.

Between **R. H.** plaintiff, and  
**J. G.** defendant.

**D.** **D.** clerk to **R. K.** of *Castle Yard, Holborn*, in the county of *Middlesex*, gentleman, maketh oath, that the defendant **J. G.** liveth in *Great George Street*, within the city of *Westminster*, or the suburbs of the city of *London*, in the county of *Middlesex*. And this deponent, this present day, enquired at the said defendant's house or lodgings in the said street, whether he the said defendant was in town or not; and this deponent was there informed by a servant in livery at the said defendant's house or lodgings, that he was then within, in his said house or lodgings.

Sworn, &c.

**D. D.**

**N. B.** If the defendant does not live in *London*, or the suburbs thereof, *the place where*, must be stated in the affidavit, and how many miles it is distant from *London*.

*Affidavit of service of subpœna from the defendants, or the confession.*

In Chancery.

Between **R. R.** plaintiff, and  
**S. T.** defendant.

**R.** **R.** of, &c. the complainant in this cause maketh oath, that on (*the time when*) at (*the place where*) he heard **S. T.** the defendant in this cause, own and confess to **Mr. T. C.** (*the person to whom he made such confession*) and that he the said defendant

was

## AFFIDAVITS.

was served with a writ of *subpœna*, issuing out of, and under the seal of this honourable court, returnable (*the return of writ*) at the suit of his deponent.

Sworn, &c.

R. R.

*Affidavit of complainant that he saw another person serve defendant with a subpœna at his suit.*

In Chancery.

Between R. R. plaintiff, and  
S. T. defendant.

R. R. of, &c. the complainant in this cause, maketh oath, that on (*the time when subpœna served on defendant*), he saw P. R. of, &c. serve the defendant S. T. with a writ of *subpœna*, issuing out of, and under the seal of, this honourable court, whereby the said defendant S. T. was required to appear in the said court, on (*the return of the writ of subpœna*) at the suit of this deponent, and that since the service thereof, the said P. R. is dead, or has absconded, so that he cannot now be found or met with.

Sworn, &c.

R. R.

*Affidavit to obtain an order of court that service of subpœna to hear judgement on defendant's solicitor shall be deemed good service.*

In Chancery.

Between T. C. plaintiff, and  
A. B. defendant.

C. B. of, &c. gentleman, maketh oath, that he this deponent, this 17th day of May instant, went to Mr. P. P. who is solicitor for the defendant in this cause, to inquire where he could find the defendant A. B. in order to serve him with a *subpœna* to hear judgment in this cause, which this deponent then had in his pocket ready to serve, and the said Mr. P. P. told this deponent that he believed the said A. B. was in Scotland, but immediately afterwards returned for answer that he knew not where he was; and this deponent the same day went to the *Crown and Anchor Tavern*, in the *Strand* (which place this deponent was informed was a house where the said A. B. used frequently to come), and the master of the said tavern told this deponent that he did not know where the said A. B. was, or was to be met with; and this deponent saith, that he on the same day went to a public house, called the *Flying Horse*, in *Bartholomew Lane*, in the city of London, another place where this deponent was likewise informed the said Defendant A. B. used frequently to come, and the master of the house likewise informed this deponent, that he knew not where the said defendant A. B. was, but believed he was very hard to be met with; and



and a gentleman, being then in the said *Flying Horse*, told this deponent, that he knew the defendant *A. B.* very well, and that he was not then in *Great Britain*.

Sworn, &c.

*C. B.*

*Affidavit of seeing a person serve a subpœna, when the person who served it is dead or absconds.*

In Chancery.

Between *A. B.* plaintiff,  
*E. F.* defendant.

*A. B.* of — in the county of — maketh oath, that he this deponent was present on the — day of — and did see *C. D.* of, &c. personally serve *E. F.* the defendant in this cause, with a *subpœna* issuing out and under the seal of this honourable court, by delivering unto the said *E. F.* the body of the said *subpœna*, so under seal as aforesaid; by which the said *subpœna* the said *E. F.* was commanded to appear in this honourable court the — day of — at the suit of the above named plaintiff: and this deponent further saith, that he this deponent hath diligently and strictly inquired after the said *C. D.* in order that he might prove the service of the said *subpœna*, but this deponent hath not been able to get any other intelligence of him, but that he is either dead or absconds, so that he cannot be found.

*A. B.*

Sworn, &c.

*Affidavit that a defendant absconds to avoid being served with a subpœna.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*A. B.*, the plaintiff in this cause, maketh oath, that on strict search and diligent inquiry at the usual place of residence of the defendant *C. D.* and elsewhere, he cannot be found to be served with a *subpœna* issued out of and under seal of this honourable court, &c. at this deponent's suit: And this deponent further saith, that he was informed by Mr. *E. F.* of —, which information this deponent verily believes to be true; and he justly suspects, that he the said defendant *C. D.* is gone beyond sea, or now absconds on purpose to avoid being served with the aforesaid process; and saith, that the said *C. D.* hath not entered any appearance in this cause.

*A. B.*

Sworn, &c.

*Affidavit*

*Affidavit of serving a subpoena for a better answer.*

*A. B.* &c. [as in affidavit of serving a subpoena to answer] by which said subpoena the said defendant *C. D.* was commanded to appear in this honourable court to put in a better answer to the plaintiff's bill, as appeared to this deponent by the label of the said subpoena.

*A. B.*

Sworn, &c.

*Affidavit of serving a subpoena for costs, and refusal to pay the same.*

Between *E. F.* complainant, and  
*C. D.* defendant.

*A. B.* &c. maketh oath, that this deponent did, on the —, day of —, personally serve the said defendant *C. D.* with a subpoena issuing out of and under the seal of this honourable court, by delivering to the said *C. D.* the body of the said subpoena so under seal as aforesaid, by which said subpoena the said *C. D.* was required to pay unto the said plaintiff, or bearer, the sum of —, as appeared to this deponent by the label of the said subpoena; and this deponent did at the same time demand of the said *C. D.* the said sum of —, but the said *D.* then refused to pay the same, or any part thereof, to this deponent, nor hath the said *C. D.* since paid the same, or any part thereof, either to this deponent, or to the said plaintiff, as this deponent is informed, and verily believes.

*A. B.*

Sworn, &c.

Note: all subpoenas for costs to be served personally.

*Affidavit of service of a subpoena to name an attorney.*

THE form of this affidavit is the same as that of serving any other subpoena; only inserting at the last, *whereby the said defendant was required to appear in this court the — day of —, to name an attorney at the plaintiff's suit.*

Note; It is usual, if upon service of this writ the defendant do not appear at the return thereof, to proceed by attachment against him to compel him. Where the clerk in court for the defendant dies pending the suit, the plaintiff serves the defendant with a subpoena to name an attorney. - But if the plaintiff's clerk in court dies before the decree, the defendant need not serve the plaintiff with a subpoena, because it is the plaintiff that must keep the cause moving; and the defendant can only give him notice to dismiss, if he does not proceed in three terms; And he is to serve this notice personally upon the plaintiff, which will oblige him to have recourse to a clerk in court. But after a decree, if there be an account before a Master, &c. and the plaintiff's clerk dies, then the defendant may serve him with a subpoena to name an attorney.

*Affidavit*

*Affidavit that a plaintiff cannot be found.*

Between C. D. plaintiff, and  
E. F. defendant.

A. B. of, &c. solicitor for the defendant in this cause, maketh oath, that he this deponent hath lately used his utmost endeavours to find out the said complainant, but after the most diligent inquiry this deponent cannot hear where he is, though this deponent inquired after him the said complainant at, &c. where this deponent was informed he lived and resided: And this deponent further saith, that he hath applied to Mr. — the said complainant's clerk in court, and to Mr. — the said complainant's solicitor in this cause, to be informed by them where the said complainant lived or might be found; but they both refused to give this deponent any information therein.

A. B.

Sworn, &c.

*Affidavit that the defendant cannot answer without sight of goods in the country.*

Between A. B. plaintiff, and  
C. D. defendant.

C. D. the defendant in this cause, maketh oath, that this deponent cannot put in a full and perfect answer to the complainant's bill, without the sight of several goods and things mentioned in the plaintiff's said bill: And this deponent further saith, that the said goods and things are now at — in the county of — above — miles distant from the place of this deponent's now residence.

C. D.

Sworn, &c.

*Note;* If the bill be for a discovery of deeds and writings, then the affidavit must be thus, viz. *that the defendant cannot put in a full and perfect answer, &c. without the sight and perusal, &c. (mentioning the deeds, &c.) and which deeds, &c. are at, &c.*

*Affidavit that a defendant is sick and unable to answer.*

Between E. F. plaintiff, and  
C. D. defendant.

A. B. of, &c. maketh oath, that this deponent hath attended C. D. the defendant in this cause for a week past as his physician, and saith, that during the aforesaid time the said C. D. hath been and now is, so ill and disordered in his senses, by means of a violent fever, which he now labours under, that he is confined to his bed: And this deponent verily believes that the

the said *C. D.* is, by reason of such indisposition, at this time utterly incapable of answering the plaintiff's bill.

*Affidavit that a defendant is unable to attend to put in his answer.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*E. F.* of, &c. maketh oath, that the said defendant is so much afflicted with rheumatick pains, that he is confined to his bed, and is unable to attend to put in his answer to the said complainant's bill in this cause.

*E. F.*

Sworn, &c.

*Affidavit of a witness being old and infirm, upon a petition to examine him de bene esse before issue joined.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*A. B.* the plaintiff in this cause, maketh oath, that *G. H.* of, &c. gentleman, a very material witness on his behalf in this cause, and without whose evidence this deponent (as he is advised, and verily believes) cannot safely proceed to a hearing in his said cause, and is now in the seventieth year of his age, as he the said *G. H.* informed this deponent; and this deponent further saith, that the said *G. H.* appears to be very weak and infirm, and in a declining way, and in all probability not likely to live long.

*A. B.*

Sworn, &c.

*Affidavit of service of a subpoena to testify.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*G. H.* of, &c. gentleman, maketh oath, that he this deponent did, on the ——— day of ———, personally serve Mr. *J. K.* with a subpoena issuing out of and under seal of this honourable court, by delivering unto the said Mr. *J. K.* the body of the said subpoena under seal as aforesaid: And this deponent did at the same time give to the said Mr. *J. K.* one shilling, by which said subpoena the said Mr. *J. K.* was immediately to appear in this court to testify for the plaintiff in this cause, as appeared to this deponent by the label of the said subpoena.

*G. H.*

Sworn, &c.



*An Affidavit of a defendant, his clerk in court, and solicitor, in order to enlarge publication, the commission being returned.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HE defendant *C. D.* of — in the county of — and *E. F.* the defendant's solicitor in this cause, and *G. H.* the said defendant's clerk in court in this cause, severally make oath, and say; and first, the said defendant *C. D.* maketh oath, that the depositions taken in this cause, by virtue of a commission issued for that purpose out of and under seal of this honourable court, have not been seen, read, or heard read, by this deponent, nor hath this deponent been informed or acquainted with the purport or contents of the said depositions so taken, nor will this deponent, until publication shall be further enlarged, and pass by the order of this honourable court, in case such order can be obtained: And the said defendant further saith, that he hath several material witnesses to examine, as he is informed, and believes (*to wit* —). And the said *E. F.* and *G. H.* for themselves severally make oath, that the said depositions are returned, and now remain in the custody of this deponent *G. H.* the said defendant's clerk in court, unopened and unpublished as these deponents severally believe: And further say, that they, nor either of them, have not seen, read, or heard read, the said depositions, nor been informed of the contents thereof, nor will they these deponents, or either of them be informed of the contents thereof until publication shall be further enlarged, and pass by the further order of this honourable court, in case such order can be obtained.

*C. D.*

*E. F.*

*G. H.*

*All sworn the — day of —  
1767, at the public office,  
before*

*Affidavit of a clerk in court, in order to enlarge publication, the commission being returned.*

Between *C. D.* complainant,  
*E. F.* defendant.

**A.** *B.* one of the sworn clerks of the Six Clerks' office, the said —'s clerk in court, maketh oath, that the depositions taken in this cause, by virtue of a commission issued for that purpose out of and under seal of this honourable court, are returned unto him this deponent, and the same remain unopened and unpublished, and this deponent saith, that he hath not seen nor read, nor is he acquainted with the purport or contents of the depositions so taken, nor will this deponent be informed thereof until publication shall pass by the further order of this honourable court, in case such order can be obtained.

*Note;*

*Note* ; The plaintiff or defendant, and his solicitor, must make the like affidavit with the clerk in court, where publication is actually passed and witnesses examined, before any order can be obtained to enlarge publication.

*Affidavit of a solicitor, in order to enlarge publication, the commission being returned.*

Between C. D. complainant,  
E. F. defendant.

*A.* B. of, &c. maketh oath, that he hath not seen, heard, read, or been informed of the purport or contents of any of the depositions taken in this cause, nor will he this deponent see, hear, read, or be informed of, the purport or contents of the said depositions, until the further order of this honourable court, in case such order can be obtained for the said defendant to examine any witnesses.

*Note* ; This affidavit is used where the clerk in court has made an affidavit as before ; but then the plaintiff or defendant, at whose request publication is enlarged, must make the like affidavit ; and if all three are in or near *London*, they usually join in one affidavit.

*Note* ; An affidavit of service of a *subpœna* to hear judgment, may be in the same form as where a *subpœna* to appear.

*Affidavit of serving a notice of motion.*

Between A. B. complainant,  
C. D. defendant.

*C.* H. of, &c. maketh oath, that he this deponent did, on the — day of —, serve Mr. E. who acts as clerk in court for the defendant in this cause (as this deponent is informed and believes), with a notice in writing in this cause, purporting that the plaintiff intended to move the court, &c. (*here recite the notice*) by delivering a copy of the said notice to the said Mr. E.'s clerk or agent at his seat in the Six Clerks' Office.

G. H.

Sworn, &c.

*Affidavit of a mortgagee's attending to receive his money pursuant to the master's report.*

Between A. B. plaintiff,  
C. D. defendant.

*A.* B. the plaintiff in this cause, maketh oath, and faith, that he this deponent, in pursuance of the report of S. Y. Esq. one of the Masters of this honourable court, bearing date — day

day of ——— did on the ——— day of ——— personally attend and wait at the Chapel of the Rolls in *Chancery-lane*, from before the hour of ten of the clock until and after the hour of twelve of the clock (the time and place mentioned in the report) in the forenoon of the said ——— day of ———, in order to receive from the defendant in this cause the sum of 544 *l.* 7 *s.* by the said report reported due and directed to be paid to this deponent for principal, interest, and costs for the mortgage in question in this cause, when and where the said defendant (if more than one “the said defendants, any or either of them”) or any other person or persons on his, their (any or either of their) account or accounts, did not, to this deponent’s knowledge or belief, attend or pay to this deponent the said sum of 544 *l.* 7 *s.* or any part thereof; but this deponent saith, that the said sum still remains due and unsatisfied.

A. B.

Sworn, &c.

*Affidavit of serving a petition.*

Between E. F. plaintiff, and  
C. D. defendant.

A. B. of, &c. ——— maketh oath, that he this deponent did, on the ——— day of ——— instant [ *if upon the party himself, then you say*, “personally serve the (party) with a true copy, &c.” ], leave at the seat of Mr. ——— of the Six Clerks’ Office, with his agent there, a true copy of a petition in this cause in writing, preferred to the right honourable the Master of the Rolls, on the humble petition of the said defendant, with his Honour’s answer or order thereon, bearing date the ——— instant, whereby it was ordered that the parties concerned should attend his Honour on the matter of the said petition the next day of petitions, of which notice was forthwith to be given; which said Mr. ——— acts as clerk in court for the plaintiff in this cause, as this deponent is credibly informed, and verily believes: And this deponent further saith, that at the time he so served the said copy he shewed the said original petition to the said agent.

A. B.

Sworn, &c.

*Affidavit of serving an order on a clerk in court.*

Between A. B. complainant, and  
C. D. defendant.

C. H. of, &c. maketh oath, that he this deponent did, on the ——— day of ———, personally serve Mr. ——— with a true copy of an order made in this cause, bearing date, &c.

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whereby

whereby it was ordered, that, &c. (*here set forth the ordering part*) or to that effect; and this deponent did at the same time shew unto the said Mr. — the original order duly passed and entered; which said Mr. — is clerk in court for — in this cause, as this deponent is informed and believes.

G. H.

Sworn, &c.

*Affidavit of serving an order to confirm the Master's report, unless cause.*

Between A. B. plaintiff, and  
C. D. defendant.

G. H. of, &c. maketh oath, that he this deponent did, on the — day of —, personally serve the defendant C. D. with an order made in this cause, bearing date the — day of —, whereby it was ordered that the report made in this cause by Mr. B. one of the Masters of this court, dated the — day of —, and all the matters and things therein contained, should stand ratified and confirmed by the order, authority and decree of this honourable court, to be observed and performed by all parties thereto, according to the tenor and true meaning thereof, unless the defendant, having notice thereof, should within eight days after such notice shew, unto this court, good cause to the contrary, and at the same time shewing the said C. D. the said original order duly passed and entered.

G. H.

Sworn, &c.

*Affidavit of serving an order on two clerks in court.*

Between C. D. complainant, and  
E. F. defendant.

A. B. of, &c. — maketh oath, that he this deponent did, on the — day of — last, leave at the seat of Mr. — of the Six Clerks' Office, with his agent there, a true copy of an order in writing in this cause, duly passed and entered, bearing date the — day of the said —, whereby it was ordered, that, &c. — And this deponent further saith, that he did on the same day also leave at Mr. —'s seat, with his clerk or agent there, another copy of the said order in writing, purporting as aforesaid; which said Mr. — is clerk in court for the, &c. and the said Mr. — for the —, as this deponent is credibly informed and verily believes: And this deponent at the same time shewed each of the said respective agents, he so served as aforesaid, the said original order.



*Affidavit of serving an injunction.*

Between *A. B.* complainant, and  
*C. D.* defendant.

*G. H.* of, &c. maketh oath, that he this deponent did, on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve the defendant in this cause with a true copy of an *injunction*, in this cause issued out and under the seal of this honourable court, bearing *teste* the \_\_\_\_\_ day of \_\_\_\_\_ instant [*or now, last past*]; and this deponent did at the same time shew unto the said defendant the original writ of *injunction* under seal of this honourable court, whereby the said defendant was enjoined, &c. [*here set forth the injoining part of the injunction, concluding with these words, or to that effect.*]

*G. H.*

Sworn, &c.

*Affidavit where the defendants live in different counties, to obtain an order, that service of an order, to confirm a Master's report nisi, on the clerk in court, may be good service.*

Between *A. B.* \_\_\_\_\_ plaintiff, and  
*C. D. E. F.* and *G. H.* defendants.

*J. K.* of, &c. maketh oath, that the said several defendants live, or reside, at a great distance from each other in several counties of *England*, to wit, the said *C. D.* at *L.* in the county of *D.* the said *E. F.* at *T.* in the county of *Y.* and the said *G. H.* at *S.* in the county of *R.* as this deponent is informed and verily believes.

*Affidavit of producing all deeds and writings before a Master.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*C. D.* defendant in this cause, maketh oath, that he this deponent, or any other person or persons for his use, to his knowledge or belief, or with his privity or consent, have not, nor hath, nor ever had, in his or their custody or power, any deeds, books of account, papers, or writings whatsoever relating to the matters in question in this cause, other than and except the several deeds, books of account, papers and writings mentioned and contained in the schedule hereunto annexed.

*Affidavit of serving a writ of execution of a decree, upon a clerk in court.*

Between C. D. complainant,  
E. F. defendant.

A. B. of, &c. — maketh oath, that he this deponent did, on the — day of this instant —, deliver unto Mr. —, the defendant's clerk in court, a true copy of a writ of execution of a decree. bearing *teste* at *Westminster* the — day of —, and at the same time shewed him the said writ of execution under seal of this honourable court, whereby the defendant was enjoined or directed to, &c.

A. B.

Sworn, &c.

*Affidavit of serving a writ of execution of a decree, &c. upon the parties.*

Between A. B. complainant,  
C. D. defendant.

E. F. of, &c. maketh oath, that upon, &c. last, he this deponent did personally serve the defendant with a writ of execution of a decree made in this cause, bearing *teste* the — day of — last past, by shewing the said writ under seal of the said court unto the said defendant, at his house in, &c. and at the same time delivering unto him a true copy thereof; by which decree and writ the defendant was enjoined to pay, &c. in the said decree and writ mentioned; and at the same time this deponent shewed unto the said defendant a letter of attorney executed by the complainant under his hand and seal, empowering this deponent to ask and receive of the said defendant the said sum of, &c. A copy of which said letter of attorney this deponent then also left with the said defendant, of whom he did then demand the said sum of, &c. but the defendant did not then pay the same, or any part thereof, to this deponent; nor hath he yet paid the same to this deponent, or to the plaintiff, or to any other for his use, to this deponent's knowledge or belief.

E. F.

Sworn, &c.

*Affidavit of having discovered new matter for a bill of review.*

Between A. B. plaintiff,  
C. D. defendant.

C. D. the defendant maketh oath, that since the time of pronouncing the decree in this cause, he, this deponent, hath discovered new matter of consequence in the said cause, particularly that the plaintiff on, &c. did, &c. which this deponent could not possibly know so as to make use thereof in his defence, at the time of pronouncing the said decree.

C. D.

Sworn, &c.

*Affidavit of waiting at the Rolls, to receive money reported due.*

Between *John Farr*, — — — plaintiff,  
*James Chapman, Charles Rayner, and William Goudge*,  
 — — — defendants.

*JOHN Farr*, the plaintiff in the above cause, maketh oath, that he did attend at the chapel of the Rolls in *Chancery-lane*, within the liberty thereof, and county of *Middlesex*, from the hour of ten of the clock in the forenoon of this 17th day of *April*, till after the hour of twelve of the clock at noon, of the same day, in order to receive the sum of — — —, reported due to this deponent by the report of *Robert Ord*, Esq.; made in this cause the tenth day of *January* last, but this deponent saith, that the said defendants, *James Chapman, Charles Rayner, and William Goudge*, or any or either of them, or any person on their or any or either of their behalves, did not attend there; or pay or offer to pay the said sum of — — —, or any part thereof, to this deponent, neither is the said sum of money, or any part thereof, yet paid to this deponent.

Sworn, &c.

*Affidavit of facts, for further adjourning cause.*

Between *D. W.* — — — plaintiff, and  
*C. M.* his wife and others, defendants.

*JOHN Rayner*, one of the solicitors of this honourable court, maketh oath, that he this deponent hath made diligent inquiry after the defendant *C. M.* and particularly of *O. P.* his solicitor, and *L. M.* his clerk in court, in this cause, where the said *C. M.* could be heard of, or met with, so as to serve him the said *C. M.* with a *subpoena*, to hear judgment in this cause, but neither the said *O. P.* or *L. M.* could or would inform this deponent, where the said *C. M.* could be found.

*J. R.*

Sworn, &c.

*Affidavit by a clerk in court of a country solicitor being indebted to him for fees, &c.*

Between *John Williams*, Esq; and *Mary Charlotte*, his wife,  
*Mary Banks Brown*, and *Jean Mary Brown Powlett*, plaintiffs,  
 The most noble *Harry duke of Bolton*, and others, defendants: And

Between the most noble *Harry duke of Bolton*, plaintiff,  
 The said *Mary Banks Brown* and others, defendants.

*JOHN Radcliffe*, of the Six Clerks office, *London*, gentleman, one of the sworn clerks of the said office, maketh oath and saith, that he was employed by *George Green*, of *Crane Court, London*, gentleman, lately deceased, who was one of the solicitors of this honourable court, as clerk in court in these causes for the said *John Williams*, esq: and *Mary Charlotte* his wife;

wife; *Mary Banks Brown, Jean Mary Brown Powlett, Francis Banks, esq; Sir John St. Aubyn, bart. Moor Green, esq. Thomas Symonds and Thomas Foley, esqrs.* parties in one or more of these causes; and that he was also employed as agent to the said *George Green*, the solicitor for the same parties in these causes, and also for *Thomas Cooke*, the late receiver, appointed in the last mentioned cause; and this deponent saith, that there is now due and owing to him as clerk in court and agent as aforesaid in the above suits, for his fees and disbursements, a very considerable sum of money, all or the greatest part of which, this deponent is informed and verily believes, will be lost, if *Elizabeth Green*, the widow and executrix of the said *George Green*, is permitted to receive the costs in the said several causes, from the several persons before mentioned, the said *George Green* dying, as this deponent is informed and verily believes, insolvent.

J. R.

Sworn, &c.

*Affidavit of defendant being served with subpœna to hear judgment, in order to dismiss the bill with costs, if the plaintiff makes default at the hearing of the cause.*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*C. D.* the defendant above named, maketh oath, and saith, that on the — day of —, he, this deponent, was served with a *subpœna* issuing out of, and under the seal of, this honourable court, whereby the deponent was required to appear in this honourable court, to hear judgment, the — day of —, at the suit of the complainant *A. B.*

*C. D.*

Sworn, &c.

*Affidavit to ground an application for a commission to examine witnesses abroad.*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant,

*A. B.* of, &c. esq; the plaintiff above named, maketh oath, and saith, that this cause is now at issue, and this deponent is desirous of proceeding therein; and this deponent further saith, that he hath several material witnesses to examine, who now live and reside in *Boston*, in *New England*, in *North America*, as this deponent hath been informed and verily believes; and particularly *Andrew Forbes* and *Lewis Somerville*, who are subscribing witnesses to certain indentures of lease and release,

in



in the pleadings in this cause mentioned: And this deponent faith, he is advised, he cannot safely proceed to an hearing in this cause, without the testimony of such witnesses.

A. B.

Sworn, &c.

*Affidavit in support of a charge left at a master's office.*

In Chancery.

Between A. B. defendant, and  
C. D. plaintiff.

A. T. of, &c. widow and executrix of J. T. late of ——— deceased, maketh oath, and faith that K. W. late of ———, esq; deceased, in the pleadings of this cause named, was in his life-time, and at the time of his death, justly and truly indebted unto this deponent's said late husband, on bond bearing date the ——— day of ——— 1767, in the penal sum of 1100 l. conditioned for payment of the sum of 400 l. of lawful money, with interest for the same, at the rate of five pounds *per centum per annum*; which bond is now in the custody of this deponent; and to which, for greater certainty as to the dates and contents thereof, this deponent refers: And this deponent doth admit, that the interest which hath accrued, or become due, upon the said bond, hath been paid, remitted, or otherwise satisfied to this deponent, up to the ——— day of ——— last; and which was so paid, as this deponent hath been informed and believes, by the order or direction, or on the account of the complainant A. B. executrix of the said K. W. deceased; but this deponent faith, that the whole of the said principal money or sum of 400 l. together with the interest thereof, from the said ——— day of ——— last, still remains due and owing from the estate of the said K. W. unto this deponent as executrix of her said late husband deceased.

A. T.

Sworn, &c.

*Affidavit in support of a charge left at a master's office.*

In Chancery.

Between A. B. plaintiff, and  
C. D. defendant.

C. D. of, &c. the defendant above named, maketh oath, and faith, that A. B. the complainant above named, is, and now stands justly and truly indebted to this deponent in the sum of 385 l. together with 20 l. 12 s. 8 d. costs of suit, under and by virtue of a judgment recovered by this deponent against the said complainant, in his Majesty's court of Exchequer at *Westminster*, for the penalty of a bond bearing date the ——— day of ——— 1769, and executed by the said complainant to this deponent

deponent in the penal sum of 700 *l.* conditioned for payment to this deponent of the sum of 350 *l.* on the — day of — 1770; and this deponent saith, that the sum of 405 *l.* 12 *s.* 8 *d.* is now justly due and owing to this deponent, under and by virtue of the said judgment so obtained as aforesaid, and for principal, interest, and costs of suit.

*C. D.*

Sworn, &c.

*Affidavit of the office copy of a judgment, being a true copy examined and compared with the Records,*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*E. K.* of, &c. maketh oath, and saith, that he this deponent did, on the — day of — last, carefully examine and compare the paper writing hereunto annexed, marked *A.* purporting to be an office copy of a judgment obtained in the court of Exchequer at *Westminster*, by the said *C. D.* the defendant above named, against the said *A. B.* the plaintiff above named; and that the said paper writing is a true copy of the judgment roll, in the above mentioned suit now remaining of record, unaltered and unreversed in his Majesty's court of Exchequer aforesaid, at the office of Pleas in *Lincoln's Inn*, in the county of *Middlesex*.

*E. K.*

Sworn, &c.

*Affidavit in support of a charge, made by the holder of a promissory note, of many years standing, given by a blind person.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*P. T.* of, &c. maketh oath, and saith, that he hath been frequently called to set his hand as a witness to notes and other writings, to which *K. W.* the testator in the pleadings mentioned, on account of the imperfection in his eyes, set his mark: And this deponent saith, that he hath looked upon a paper writing marked upon the back thereof, No. 4. purporting to be a promissory note from the said *K. W.* to pay to Mr. *J. H.* or order upon demand, the sum of — *l.* for value received, and dated the 16th day of —: And this deponent saith, the name of this deponent appears to be set as a mark to the said *K. W.* setting his mark to the said note; and this deponent saith, that the name *P. T.* so set and subscribed as a witness as aforesaid, appears to this deponent to be, and to the best of this deponent's knowledge and belief, is this deponent's hand-writing; and this deponent doth verily believe, that the mark set at the foot of the said note, was made by the said *K. W.* and was set to the said note

note in this deponent's presence ; but this deponent saith, it being now upwards of twenty years since the said note was given, as appears from the date thereof ; and this deponent not having made any particular memorandum, relating to his being present at the time the said note was so signed as aforesaid, this deponent can only make oath to the particulars above stated, to the best of his knowledge and belief.

P. T.

Sworn, &c.

*Affidavit of service of a subpoena to testify.*

In Chancery.

Between A. B. plaintiff, and  
C. D. defendant.

G. H. of, &c. gentleman, maketh oath, that he this deponent did, on the ——— day of ———, personally serve Mr. J. K. with a *subpoena*, issuing out of, and under seal of, this honourable court, by delivering to the said Mr. J. K. the body of the said *subpoena* under seal as aforesaid ; and this deponent did at the same time give to the said Mr. J. K. one shilling ; by which said *subpoena*, the said Mr. J. K. was immediately to appear in this court, to testify for the plaintiff in this cause, as appeared to this deponent by the label of the said *subpoena*.

G. H.

Sworn, &c.

*Of Petitions.*

A PETITION is the request of a person in writing, directed to the Chancellor or Master of the Rolls, shewing some matter or cause, whereupon the petitioner prays some direction, order, or relief.

Most things which may be moved for of course, may be petitioned for ; and petitions are upon so many various and different occasions, that to enumerate them in particular, would be endless. It may be sufficient to observe in general, that they are either for special purposes, or for matters of course ; as for a commission to plead, answer, or demur, &c. or to refer exceptions to answer, filed in the vacation, to the sitting master at the public office ; or for a guardian to be assigned for an infant defendant (if in the country), and to take the infant's answer by such guardian ; or if the defendant be a lunatick, or an idiot, that he may answer by his committee (naming him) appointed by the court : but if the infant live in *London*, or within ten miles thereof (unless upon some extraordinary occasion), he appears in court with some fit person to be his guardian, first writing a note of the plaintiffs' and defendants' names, and underneath that, the said infant prays this, that such a person (naming him) may be appointed his guardian, to answer the plaintiff's bill, and defend this suit ; which the court usually grants, if they see no cause of impediment against the person to be assigned guardian, and an  
order

order is drawn up thereupon by the register and entered, and then the answer is sworn by such guardian. *Prac. Reg.* 269.

Petitions are also preferred for several other matters, as to enlarge time for answering, for *subpœnas* to rejoin returnable immediately, for commissions to examine witnesses in the country, and for enlarging publication, or paying money, or for removing a hardship; as to stay process of contempt upon just cause, or for amending mistakes, &c.

In some cases petitions may be preferred before, as well as after a bill filed, as for a person to be admitted in *forma pauperis*. *Prac. Reg.* 169.

Brevity and form are the two things chiefly to be observed in them; and all petitions, even those to be admitted in *forma pauperis*, are to be engrossed upon treble sixpenny stamps; but after admission without stamps.

Petitions are sometimes upon collateral matters, as they have relation to some former suit, or cause depending, or to an officer of the court, as to have a clerk in court, or solicitor's bill taxed, or to oblige him to deliver up papers, &c. *Ibid.* 1270.

And where a matter comes before the court by petition, and the court makes an order thereupon without any attendance, and the adverse party would discharge such order, or have any thing done touching the matter of such petition, he commonly applies by way of petition also; but oftentimes upon motion the court will do it.

Though no former order made in court shall be altered, or even explained by petition, yet the execution thereof may be stayed upon petition for a short time, till the matter can be moved and argued in court; nor shall any commission for the examination of witnesses be discharged, nor any examinations or depositions suppressed upon petition, unless the matter be first referred to a master, and a certificate had thereupon; nor shall any injunction to stay suits at law be granted, reversed, dissolved, or stayed upon petition; nor shall an injunction of any other nature pass by an order upon petition, without notice, and a copy of the petition first given to the other side; the petition to be filed with the register, and an order drawn up and entered thereupon; and no sequestration, dismissal, retainer upon dismissal, or final order, is granted upon petition; nor shall the commitment of any person, taken upon process of contempt, be discharged, but upon hearing the adverse party, his attorney or clerk towards the cause. *Prac. Reg.* 270. *Ibid.* *Ord. Chanc.* 151.

After the petition is drawn and ingrossed, it must be delivered to the chancellor's, or the Master of the Rolls's secretary, who is to get it answered; and if it be a matter of course, it is forthwith granted; but if it requires examination, or the other side to be heard, then it is usually ordered, that all parties attend the next day



day of petitions; at which time the matter is debated, and such order made as the court thinks fit; and in such cases affidavits are frequently necessary to shew the court how the matters stand on both sides. *Toth. 34. Ord. Chanc. 151.*

And matters of great consequence, which require dispatch, may be petitioned for in the vacation; and, as for petitions of course, they are frequently preferred in the vacation to the Master of the Rolls. *Prac. Reg. 271.*

The lord chancellor is generally petitioned touching the setting down of pleas, demurrers, or exceptions to be argued, and concerning special orders to be made by himself, and for rehearings; but in most other cases, application is made to the Master of the Rolls, who may also be petitioned to rehear a cause heard before himself. *Ibid.*

In 1647, there was an order made, that no officer should issue a *subpœna*, attachment, or any other process, nor admit of any proceedings in any cause depending in this court, upon a petition signed by the lord chancellor, lords commissioners, or the master of the rolls, until the petition is first filed with the register, and an order drawn up and entered thereupon; and all process and proceedings otherwise issued and had thereupon, should be null and void, and not binding upon the adverse party. *Ibid.*

Also, in 1687, it was ordered, that no order made upon any petition (unless the same be by way of summons), shall be effectual to ground *subpœnas*, or other process, but where within three days in term time, or a week in the vacation, after the order granted, the same be drawn up and entered with the register; to the end no person may be surpris'd by any private order; but note, *this rule by modern practice, seems otherwise; and such order may be drawn up almost at any time, provided it be before such subpœna or process issues.* *Ord. Chanc. 49. Ibid. 217.*

Orders upon petitions must be drawn up, passed, entered, and served, by delivering a copy to the other party, as other orders are. In an injunction cause, if the bill be not filed in four days after the return of the *subpœna*, and costs are preferred for want thereof, the plaintiff, upon motion or petition, may obtain an order for the defendant to accept the bill *nunc pro tunc*, upon payment of costs out of purse. *Ord. Chanc. 49. 217.*

A rich uncle takes his niece into his house, maintains her there, and dies, having left her 10,000 *l.* the executor continues to keep the niece in the house where he and the testator lived; the father of the child petitions that she may be delivered to him; the child (of the age of 13) appears in court, and being examined, denies she is under any force; the court was of opinion, that the guardianship of the child does, by the law of nature, belong to the father, but that the right thereto is not to be determined

*terminated without a bill.* So the court will not, in so summary a way, as on a bare petition, order a trustee to deliver over possession of the trust estate to the *cestui que trust*, who must in that case bring a bill. 3 *P. Will.* 153. *ex parte Hopkins.*

It was admitted by Lord Chancellor *King*, that a decree, much more an interlocutory order, if gained by collusion, may be set aside on a petition. 3 *Will. Rep.* 154.

*Petition that defendant may accept plaintiff's bill nunc pro tunc, upon payment of costs.*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*[To the right honourable the Master of the Rolls.]*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill in this honourable court against the defendant, thereby praying (among other things) for an injunction, &c. and having served the defendant with process to appear, and answer the same, the said defendant appeared accordingly; but your petitioner's bill not being at the exact day, though in a very few days after pled, the defendant's clerk in court refuses to accept the same, and insists upon costs.

Wherefore your petitioner humbly prays your Honour, that the defendant's clerk in court may be ordered to accept your petitioner's bill upon payment of costs out of purse.

*And your petitioner, &c.*

*A. B.* In a petition for further time, the defendant must always mention what time he had before obtained, otherwise he might delay the cause an unreasonable length of time.

The defendant had obtained three orders for time, and in his last order had got near as much as in the first, without mentioning that he had before obtained any time. The plaintiff moved to discharge the last order. Lord Chancellor said, it was not fairly obtained, but only by a *suppressio veri*, and accordingly discharged the order.

As to the time a defendant may get to answer, it depends entirely upon the pleasure of the court, and the circumstances of the case.

*Petition for six weeks time to plead, answer, or demur, and for a commission.*

In Chancery.

Between *H. R.* plaintiff,  
*S. S.* defendant.

*To the right honourable the Master of the Rolls,*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff, having filed his bill against your petitioner, he appeared thereto, and hath taken a copy.

For as much as your petitioner is not in contempt, lives in —, and has had no order for time.

Your petitioner, therefore, humbly prays your Honour, that he may have six weeks time to plead, answer, or demur to the plaintiff's bill, and that he may have a commission for that purpose, returnable without delay, and that the plaintiff may, in two days after notice thereof to his clerk in court, give your petitioner's clerk in court commissioners names to see the same taken; or in default thereof, that your petitioner may have such commission devoted to his own commissioners.

*And your petitioner will ever pray, &c.*

*Petition for further time after defendant has entered his appearance with the Register.*

*To the right, &c.*

*Sheweth,*

**T**HAT your Honour, on the — day of — last, was pleased, on your petitioner's entering his appearance with the Register on an attachment, to grant him a commission to take his answer returnable without delay, and to give him time to the last week in the last term to return the same, and to stay all proceedings for want thereof in the mean time.

That your petitioner appeared with the Register, and issued out a commission accordingly, and hath taken his said answer; but his habitation being in —, the same is not yet returned.

Your petitioner therefore humbly prays your Honour to give him ten days time to return his said answer, and to stay all proceedings for want thereof in the mean time.

*And, &c.*

*Petition to set down a cause for hearing on the equity reserved.*

*To the right honourable, &c.*

*A. B. quer.*

*C. D. def.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT at the hearing of this cause before your Lordship, on, &c. last, your Lordship was pleased to order an issue at law to be tried, whether, &c. That the issue hath since been tried at law, according to the directions of the said order; and the defendant in this cause, who was plaintiff in the said action, became nonsuit upon full evidence.

Your petitioner therefore humbly prays your Lordship to appoint a short day for setting down this cause on the equity reserved, and that your petitioner may have leave to move for his costs at law, and of his suit at the said hearing.

*And, &c.*

*Petition for a rehearing the cause.*

*To the right honourable, &c.*

*A. B. quer.*

*C. D. def.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT your petitioner finds himself much aggrieved by a decretal order made in this cause, the day, &c. by, &c. whereby your petitioner is ordered and decreed to pay unto the plaintiff the sum of 500*l.* by, &c. next, with interest for the same, from the time of the said hearing until the money be paid; which sum of 500*l.* or the greatest part thereof, having been long since paid, and proof thereof made, as your petitioner conceives, and is advised;

Your petitioner humbly prays, that your Lordship will be pleased to vouchsafe a rehearing in this cause before your Lordship, he submitting to pay what costs the court shall award, in case his complaint be found groundless.

*And, &c.*

*Petition to enlarge time for payment of money.*

*Sheweth,*

**T**HAT on the ——— last your Honour was pleased to order your petitioners to bring into this court the sum of ——— within a fortnight then next, and thereupon the injunction



junction to be continued to the hearing. That the matter arising in ——— your petitioners have not been able to get the same money returned, but the defendant having three several judgments for ——— each against your petitioners on bail-bonds, they have very good security, and your petitioners shall speedily get the money returned and paid into court

Your petitioners therefore humbly pray your Honor to enlarge the time for bringing the said money into court till the ——— instant, and to stay all proceedings in the mean time.

*And, &c.*

Be it so, unless cause be shewn before me upon *Tuesday* next, at three in the afternoon, of which give notice forthwith. *T. Chanc.*

*Petition to appoint a day for an absconding defendant to appear.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*To the right, &c.*

*Sheweth,*

**T**HAT your petitioners some time since exhibited their bill in this court against the defendant *A. B.* and others, and in the month of ——— last took out process of *subpœna* under seal of this court against him the said defendant, to compel him to appear to and answer the said bill; and the utmost endeavours have been used to serve him with the said process, and the most strict enquiry hath been made after him at his last known usual place of abode, and at several other places, but cannot yet find him to serve him; and there is reason and just ground to believe that he absconds for debt, and to avoid being served with the process of this honourable court, and of other courts, as by affidavit annexed appears; and in regard the said defendant has not yet appeared to your petitioner's said bill,

Your petitioners therefore humbly pray your Honour to appoint a short day for the said *A. B.* to appear to your petitioner's said bill, pursuant to the act of Parliament made in the fifth year of the reign of his late Majesty *George the Second.*

*And, &c.*

*Petition to withdraw a plea.*

*To the right honourable the Master of the Rolls.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*The humble petition of the defendant.*

*Sheweth,*

**T**HAT the plaintiff having filed his bill in this honourable court against your petitioner, and your petitioner having put in his plea, and demurrer thereto, your petitioner is since since advised to make other defence to the said bill.

Your petitioner therefore prays your Honour that he may withdraw his said plea and demurrer, upon paying the plaintiff or his clerk 20s. costs.

*And your petitioner shall pray, &c.*

*Petition for a commission after a Serjeant at arms.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*Sheweth,*

**T**HAT your petitioner appeared to the plaintiff's bill the — instant, which appears to have been filed the — day of — last, and your petitioner finds he is in contempt to a Serjeant at arms, upon a *non est inventus* returned upon a commission of rebellion of not appearing thereto in time.

That your petitioner is desirous forthwith to discharge his said contempt, by paying the plaintiffs their costs in respect thereof, and also of putting in his answer to the plaintiff's bill as soon as may be, in regard your petitioner lives in the county of —, and must answer by commission.

Your petitioner therefore humbly prays your Honour, that the plaintiff's clerk in court may forthwith deliver to your petitioner's clerk in court a bill of costs, in respect of your petitioner's contempt, and that it may be referred to one of the Masters of this court, to tax the said bill, in case the said clerks in court differ in settling the same; and that upon your petitioner's payment of the said costs so settled or taxed, all further proceedings upon the said contempt may be stayed in the mean time, and that your petitioner may be at liberty to sue out a commission to plead, answer or demur, and have a month's time to return the same.

*And, &c.*

*N. B.* In causes where the crown is interested, it is necessary to make the Attorney General a party, and none of the King's

King's Counsel can be retained to plead against the Crown, without first obtaining an order from his Majesty for that purpose, which is done by petition in the following manner :

*To the King's most excellent Majesty.*

*The humble petition of A. B. and others,*

*Sheweth,*

**T**HAT your petitioners are plaintiffs in a cause in Chancery, wherein your Majesty's Attorney General and others are defendants. That your petitioners have all along advised with your Majesty's Solicitor General, and *T. C. Esq*; two of your Majesty's Counsel learned in the law; but forasmuch as they cannot plead in the said cause without your Majesty's royal licence to the said Mr. Solicitor General and *T. C. Esq.* to be of Counsel for them in the said cause;

Your petitioners therefore humbly pray your Majesty will be most graciously pleased to grant your royal licence for the said Mr. Solicitor General and the said *T. C. Esq*; to be of Counsel for your petitioners in the said cause, as often as there shall be occasion.

*And your petitioners, &c.*

This petition is wrote upon unstamped paper, and carried to the Secretary's Office.

Here follows the order upon the above petition :

**W**HEREAS *A. B. &c.* have by their petition humbly represented unto us, that they are plaintiffs in a cause in Chancery, wherein our Attorney General and others are defendants, and that they all along have advised with our trusty and well-beloved Solicitor General, and *T. C. Esq*; two of our Counsel learned in the law. But forasmuch as they cannot plead for the petitioners in the said cause without our royal licence, dispensing therewith; they have therefore most humbly prayed to us to grant our royal licence to our said Solicitor General and *T. C.* to be of Counsel for them in the said cause: We are graciously pleased to condescend to their request, and we do accordingly hereby dispense with our said Solicitor General and *T. C.* and give them power, licence, and permission to appear in the behalf of the said *A. B. &c.* to be of counsel for them in the said cause, as often as there shall be occasion.

Given at our court at *St. James's* the ——— day of ——— 1790, in the thirtieth year of our reign.

*By his Majesty's command,*

**W. W. GRENVILLE.**

Solicitor General and *T. C. Esq*;  
licence to plead.

**VOL. II.**

**D**

**Towards**

Towards the top thereof is the King's seal, and his name wrote with his own hand. The order is upon treble half-crown stamps. The whole expence hereof is about eight pounds, if it be for one Counsel to plead; about ten pounds for two Counsel, and about twelve pounds for three.

This order must be shewn to the Counsel permitted to plead thereby, at the time you deliver your briefs.

*Petition to Lord Chancellor for his Lordship's letter to a Nobleman.*

Between *A. B.* ——— plaintiff,  
*C. Duke of E.* defendant.

*To the Right Honourable the Lord High Chancellor of Great Britain.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner hath exhibited his bill into this honourable court against the said *C. Duke of E.* who in regard to his quality cannot be compelled by the ordinary process of this court, to appear to your petitioner's said bill;

Your petitioner therefore most humbly prays your Lordship's letter missive directed to the said *C. Duke of E.* desiring his Grace to appear to your petitioner's said bill on the ——— day of ——— next.

*And your petitioner shall ever pray, &c.*

*Petition for a subpoena returnable immediately.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*To the right honourable the Master of the Rolls.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having filed his bill in this honourable court against the said defendant, and the said defendant living and residing within ——— miles of the city of *London*, as by the affidavit annexed appears;

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to take out process of *subpoena* for the said defendant to appear to and answer your petitioner's said bill, returnable immediately,

*And your petitioner shall ever pray, &c.*



*Petition for process of contempt returnable immediately.*

Between *A. B.* complainant,  
*C. D.* defendant.

*To the right honourable the Master of the Rolls,*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner in *Easter* Term last past, exhibited his bill in this honourable court against the defendant, to which the said defendant appeared, but hath neglected to put in his answer thereto; and the said defendant living and residing within the distance of ——— miles from the city of *London*, as by the affidavit annexed appears;

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to make out process of contempt against the said defendant, for want of his answer, returnable immediately.

*And your petitioner shall ever pray, &c.*

*Petition to amend a bill, by adding a defendant.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable the Master of the Rolls.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner filed his bill in this honourable court against the defendant in ——— term last, to which the defendant hath appeared and put in his answer; upon which your petitioner is advised to make *E. F.* a defendant in this cause.

Your petitioner therefore most humbly prays your Honour, that he may have leave to amend his bill, by adding the said *E. F.* a defendant thereto, with apt words to charge him.

*And your petitioner shall ever pray, &c.*

*Petition to amend a bill, on payment of twenty shillings costs.*

Between *A. B.* plaintiff, and  
*C. D.* and others defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having filed his bill in this honourable court against the defendant *C. D.* and others, the said defendant *C. D.* hath only put his answer thereto, (none

other of the defendants having yet appeared thereto); upon perusal of whose answer, your petitioner is advised by his counsel to amend his bill.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to amend his bill, upon payment of twenty shillings costs to the said defendant *C. D.* or his clerk in court, in respect thereof.

*And your petitioner shall ever pray, &c.*

*Petition for a plaintiff to dismiss his own bill with costs.*

Between *A. B.* plaintiff, and  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill into this honourable court against the defendant, since which the said defendant hath put in his answer thereto, upon perusal whereof your petitioner is advised to dismiss his bill:

Your petitioner therefore most humbly prays your Honour, that his said bill may stand dismissed out of this court, with costs to be taxed by one of the Masters of this court.

*And your petitioner shall ever pray, &c.*

*Petition to refer an examination to a Master, and to tax costs upon the breach of an order.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable the Master of the Rolls.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT the defendant having been examined on interrogatories touching a contempt laid to his charge, for breach of an order of this court of the — day of — last, your petitioner hath examined witnesses for proof thereof.

Your petitioner humbly prays your Honour, that it may be referred to a Master of this court to consider of the said examination and depositions, and to certify whether the defendant hath committed the contempt laid to his charge, and to tax costs according to the general order in that behalf.

*And your petitioner shall ever pray, &c.*

*Petition to be discharged out of the custody of the Serjeant at arms.*

Between *A. B. and C. D.* plaintiffs,  
*E. F. and G. H.* defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of the defendants,*

*Sheweth,*

**T**HAT your petitioners are and have been (for above a fortnight) in custody of the Serjeant at arms attending this honourable court, for not answering to the plaintiffs' bill, which your petitioners have since answered, and paid the costs of the contempt, and the clerk of the other side doth consent to your petitioners' discharge, as by the certificate annexed appears.

Your petitioners therefore humbly pray your Honour, that your petitioners may be discharged out of the custody of the Serjeant at arms, paying their fees.

*And your petitioners shall ever pray, &c.*

*Petition for a return of a writ of inquiry.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable the Master of the Rolls.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT your petitioner was this day served with the *injunction* of this court, to stay his proceedings at law for the matters here in question, with the usual clause of liberty, in default of a plea, to enter up judgment, with stay of execution.

That there being default of a plea, your petitioner had an interlocutory judgment, and a writ of inquiry issued, and was long since delivered to the sheriff, who executed the same this day.

That without a return of the writ, your petitioner cannot have a final judgment.

Your petitioner humbly prays your Honour, that he may be at liberty to call for the return of the said writ, and to enter up a final judgment, he being willing to stay execution according to the said injunction.

*And your petitioner shall ever pray, &c.*

*Petition for plaintiff to give security to answer costs, and for a month's time to answer after such security given.*

Between *A. B.* plaintiff, and  
*G. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff having filed his bill in this honourable court against your petitioner, and caused a *subpœna* to appear and answer to the said bill to be served on your petitioner, to which your petitioner hath accordingly appeared, and taken a copy of the said bill; and his time for answering not being yet expired, nor being in contempt.

That the plaintiff by his bill styles himself of *New York* in *North America* in parts beyond the seas, and your petitioner lives in the city of *London*.

Your petitioner therefore most humbly prays your Honour, that the plaintiff may procure some sufficient person here in *England* to give security according to the course of the court, to answer costs before your petitioner be obliged to answer the said bill, and that your petitioner may have a month's time to plead, answer, or demur to the said bill after such security given.

*And your petitioner, &c.*

*A petition of plaintiffs to be admitted in forma pauperis.*

Between *N. M.* and *S. M.* — complainants.

*H. B.* and *E.* his wife,  
*S. N. L. L.* and *H.* his  
wife, and *S. M.* and *M.*  
his wife, } defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiffs,*

*Sheweth,*

**T**HAT your petitioners having filed their bill in this honourable court against the said defendants, thereby setting forth, that *H. O.* late of ———, in the county of ———, widow, deceased, at the time of her death, which happened in *April 1789*, was possessed of a personal estate, value *1500 l.* and died intestate without issue, leaving your petitioners and the defendants *E. B. S. N. H. L.* and *M. M.* her nearest relations and next of kin, to whom her personal estate ought to have come  
and



and been equally divided amongst them, according to the statute of distribution of intestates' estates.

That the intestate dying at ———— aforesaid, and your petitioners living very remote from her, and defendant *E.* wife of defendant *B.* living with or near the intestate at her decease, obtained administration to her, and she and her said husband possessed themselves of all the intestate's personal estate and effects, and your petitioners being entire strangers to the intestate's circumstances, the said defendant *B.* and his wife sent to the plaintiff *N.* 56 *l.* and to the plaintiff *S.* 50 *l.* separately, assuring them that the said respective sums were your petitioners' respective full distributive shares of the said intestate's personal estate, and at the same time sent general releases therewith, which your petitioners upon such report and assurances were prevailed upon to execute, relying on such assurances to be true.

That your petitioners have since discovered that the said intestate died possessed of a personal estate, value 1500 *l.* as aforesaid, and that they were imposed upon in the said releases, the same being obtained by fraud and false suggestions; and therefore filed their bill in this honourable court against the said defendants to set aside the said releases further than they extend as discharges for 50 *l.* and 56 *l.* and to have an account of all the intestate's personal estate, and that your petitioners may be paid their full and distributive shares of all the said intestate's personal estate.

That the said defendants *H. B.* and *E.* his wife, have put in their separate answers to your petitioners' said bill; and the said *H. B.* (amongst other things) admits the said intestate died without issue, possessed of a personal estate of about 1000 *l.* value, which he and his said wife possessed themselves of, and that the petitioners were intitled as aforesaid, and that they received no more than the aforesaid respective sums of 56 *l.* and 50 *l.* and were induced to give releases, or discharges, as aforesaid, which he says he believes they would not have given, if truly informed of the said personal estate: And the said *E. B.* (amongst other things) admits the said intestate died possessed of a considerable personal estate; but insists that your petitioners executed general releases to her and her husband, at the times they received the said respective sums of 56 *l.* and 50 *l.* and insists on their being sufficient discharges; but has not thought fit to plead the said releases.

That your petitioners, by reason of their poverty, as appears by affidavit annexed, are utterly unable to prosecute their said suit, unless they be admitted so to do *in forma pauper*'.

Your petitioners therefore most humbly pray your Honour, that they may be admitted to prosecute their said suit *in forma pauperis*; and that Mr. ——— may be assigned their Counsel, and Mr. ——— their Six-clerk. ———

*And your petitioner shall ever pray, &c.*

*I humbly conceive that the plaintiffs have just cause to be relieved touching the matters of this petition, and for which they have exhibited their bill.*

A. B.

*Petition of a defendant to be admitted in forma pauperis.*

Between A. B. plaintiff, and  
C. D. defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT your petitioner is served with a process to appear to and answer the plaintiff's bill, but being very poor, (as by affidavit appears) is (by reason of such his extreme poverty) unable to make his defence thereto, if not permitted to defend *in forma pauperis*.

Your petitioner therefore most humbly prays your Honour to admit him to defend this suit *in forma pauperis*, and to assign him for his Counsel Mr. ———, and Mr. ——— for his Six-clerk.

*And your petitioner shall ever pray, &c.*

*Petition (after an attachment for a dedimus potestatem, and for time to return the answer thereon).*

Between A. B. plaintiff,  
C. D. defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff having exhibited his bill into this honourable court against your petitioner and others, and served your petitioner with process returnable the first day of last term, your petitioner appeared thereto, but the writings that related to the matters in question not being in your petitioner's hands, your petitioner could not possibly procure the same so as to perfect his answer by the time allowed by the rules of this court; whereupon your petitioner has been lately arrested upon an attachment of contempt issuing out of this honourable court.

That

That your petitioner living one hundred miles distant from London, and being willing to enter his appearance with the register by his clerk in court as upon the attachment;

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to take out a *dedimus potestatem*, returnable the first return of next term, to take his answer; and that he may have a week allowed him within the said term, to return the same; and that in the mean time all further proceedings for want of the same may be stayed.

*And your petitioner, &c.*

*Note;* This is usually answered, that defendant enter his appearance with the register in four days.

*Petition to put in an answer without oath.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT your petitioner is made a party to the plaintiff's bill exhibited in this court, merely for the sake of form.

That the plaintiff is willing that your petitioner's answer to the said bill should be put in without oath, and hath by his clerk in court signified his consent thereto.

Your petitioner therefore humbly prays your Honour, that he may have leave to put in his answer without oath to the plaintiff's bill.

*And your petitioner shall ever pray, &c.*

*Note;* To this petition and all other petitions which require the clerk in court's consent, he signs in these words, *I do consent to the prayer of this petition, if your Honour shall please to order the same.*

*Petition for time to answer.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff having filed his bill in this honourable court against your petitioner and others, whereto your petitioner hath appeared, and taken an office copy thereof, and his time for answering not being yet expired, nor being in contempt;

Your

## PETITIONS.

Your petitioner therefore most humbly prays your Honour, to grant unto your petitioner a month's time to plead, answer, or demur to the plaintiff's bill, not demurring alone.

*And your petitioner shall ever pray, &c.*

In Chancery.

Between *W. L.* plaintiff, and  
*W. W.* and others, defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of W. W. one of the defendants to the bill of complaint of W. L. complainant,*

*Sheweth,*

**T**HAT your petitioner has already obtained a month's time to answer the plaintiff's bill, but the same being filed for a discovery of a title to an estate, your petitioner has fundry deeds and papers to look into, &c. before he can make a full answer to the plaintiff's bill, which he has not yet been able to accomplish; and forasmuch as your petitioner is not in contempt;

Your petitioner therefore humbly prays your Honour, that he may have a month's further time to plead, answer, or demur to the plaintiff's bill; and that all proceedings for want thereof may be in the mean time stayed.

*And your petitioner shall ever pray, &c.*

In Chancery.

Between *W. L.* plaintiff, and  
*W. W.* and others, defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of W. W. one of the defendants to the bill of complaint of W. L. complainant,*

*Sheweth,*

**T**HAT your petitioner has already obtained two orders for a month's time each to answer the plaintiff's bill, but the same being filed for a discovery of a title to an estate, your petitioner has fundry deeds and papers to look into and peruse, before he can make a full answer to the plaintiff's bill, which he has not yet been able to accomplish, and forasmuch as your petitioner is not in contempt,

Your petitioner therefore humbly prays your Honour, that the last order made in this cause may be enlarged for a fortnight's further time to plead, answer, or demur to the plaintiff's bill, and that all proceedings for want thereof may be in the mean time stayed.

*And your petitioner, &c.*



*Petition of a feme covert to answer without her husband.*

Between *A. B.* ——— plaintiff,  
*C. D.* and *E.* his wife, defendants.

*To, &c.*

*The humble petition of the defendant E. D. wife of the defendant C. D.*

*Sheweth,*

**T**HAT the plaintiff hath exhibited his bill in this honourable court against your petitioner and her said husband, whereto your petitioner hath appeared; and in regard your petitioner's said husband hath absconded and lived separate from her these two years;

Your petitioner therefore most humbly prays your Honour, that she may be at liberty to put in her answer to the plaintiff's said bill without her husband.

*And your petitioner, &c.*

*Petition for time to answer and return a dedimus.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff having filed his bill against your petitioner, he has appeared thereto and taken a copy.

That your petitioner residing in the county of ———, a commission is issued to take his answer, and made returnable in *three weeks*, &c. but your petitioner finds he shall not be able to return the same within the time limited by the strict rules of the court; and forasmuch as your petitioner is not in contempt, nor has yet had any order for time;

Your petitioner humbly prays your Honour, that he may have time to put in his answer to the said bill, until ———; and that all process of contempt for want thereof be in the mean time stayed.

*And your petitioner, &c.*

*Petition to examine a witness de bene esse before issue joined.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having filed his bill in this honourable court against the said defendant, whereto he hath appeared; but the said defendant living a great distance from *London* in the country, he hath obtained time to put in his answer till the first day of next *Hilary Term*.

That one *G. H.* of, &c. gentleman, a very material witness for your petitioner in this cause, and without the benefit of whose evidence, your petitioner (as he is advised) cannot safely proceed to a hearing of this cause; and the said *G. H.* being seventy years of age or upwards, and very weak and infirm, so that in all probability he may not live till your petitioner can bring his cause to an issue, as by the affidavit annexed appears;

Your petitioner therefore most humbly prays your Honour, that he may be at liberty forthwith to examine the said *G. H. de bene esse*, as a witness for your petitioner in this cause, saving all just exceptions.

*And your petitioner shall ever pray, &c.*

*Petition for a special commission, and for commissioners' names, or in default, the commission to issue ex parte.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT on the — day of — last, the plaintiff exhibited his bill in this honourable court against your petitioner, who has appeared thereto and taken a copy.

That your petitioner's clerk in court has oftentimes applied to the plaintiff's clerk for commissioners' names for taking your petitioners' answer, who refuses to give names for that purpose.

That your petitioner resides in the county of —, and is advised to plead, answer, and demur to the said bill.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to take out a commission to plead, answer, and demur to the plaintiff's bill; and that the plaintiff's

plaintiff's clerk in court may in two days after notice herreof give commissioners' names to the petitioner's clerk in court to take your petitioner's plea, answer, and demurrer, or in default thereof, that your petitioner may be at liberty to take out the said commission directed to his own commissioners.

*And your petitioner, &c.*

*Petition for a commission to assign a guardian, and to take the defendant's answer by such guardian.*

Between *A. B.* and another, plaintiffs,  
*C. D.* — — defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiffs exhibited their bill in this honourable court against your petitioner, to which he has appeared and taken an office copy.

That your petitioner residing in the county of ——— has craved a commission to take his answer; and the plaintiffs have given commissioners' names for that purpose.

But forasmuch as your petitioner is an infant, and cannot answer the plaintiff's bill, nor defend this suit without having a guardian assigned for that purpose;

Your petitioner therefore humbly prays your Honour, that he may be at liberty to sue out a commission to assign him a guardian, and to take his answer by such guardian.

*And your petitioner shall ever pray, &c.*

*Petition to take an answer de novo, and to amend the caption, and stay process.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT in Hilary Term last the plaintiff filed his bill in this honourable court against your petitioner, and a commission issued to take your petitioner's answer, by virtue whereof it was taken, returned and filed; but on looking into the same there appeared to be a mistake in the caption, whereupon the  
plaintiff

plaintiff obtained an order to suppress the said answer, it not appearing by the said caption that your petitioner was ever sworn to the truth of the said answer.

That in regard this is in your petitioner's own delay, who is desirous that this mistake should be rectified, and is ready and willing to pay the plaintiff his costs out of purse touching the said order.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to sue out another commission directed to the former commissioners to take his said answer *de novo*, and that the caption thereof may be rectified or amended; and that your petitioner may have three weeks time to return the same, and that all further proceedings for want thereof be in the mean time stayed.

*And your petitioner shall ever pray, &c.*

*A common petition to receive exceptions.*

Between *A. B.* plaintiff,  
*C. D.* defendant,

*To the right honourable, &c.!*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill in this honourable court against the defendant, who hath put in his answer thereto, and your petitioner being advised that the said answer is insufficient in several material points, hath caused exceptions to be taken thereto. But the said exceptions not coming in by the time limited by the rules of this court, the defendant's clerk in court refuses to accept the same.

Your petitioner therefore most humbly prays your Honour, that the said defendant's clerk in court may receive the said exceptions.

*And your petitioner shall ever pray, &c.*

Exceptions cannot be ordered to be received as in due time after three terms from the putting in of the answer, without special reasons.



*Another petition to receive exceptions.*

Between *A. B.* ——— plaintiff,  
*C. D.* and others, defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill in this honourable court against the said defendant and others, the said defendant put in his plea and answer; on arguing of which plea on the ——— day of ——— last, it was ordered that the same should stand for an answer, with liberty to your petitioner to except such matters as in the said order are mentioned.

That your petitioner has many material exceptions to offer in pursuance of the said order, but the drawing up and entering of the said order, and preparing the said exceptions, which are long, having already run out more than the time of course for delivering exceptions, the defendant's clerk in court refuses to accept the same.

Your petitioner therefore most humbly prays your Honour, that the said defendant's clerk in court may now receive your petitioner's exceptions.

*And your petitioner shall ever pray, &c.*

*A common petition to refer exceptions.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having filed exceptions to the defendant's answer, and the time for submitting being expired;

Your petitioner therefore most humbly prays your Honour, that it may be referred to one of the Masters of this court, to certify whether the said defendant's answer be sufficient in the points excepted to, or not.

*And your petitioner shall ever pray, &c.*

*Another petition to refer exceptions.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill in this honourable court against the said defendant; he appeared and put in his plea and answer thereto; on arguing of which plea, on the — day of — last, the same was ordered to stand for an answer, with liberty to your petitioner to except to such matters as in the said order are mentioned.

That your petitioner obtained your Honour's order of the — day of — last, that the defendant's clerk in court should receive exceptions as in due time, and accordingly your petitioner soon after delivered exceptions to the defendant's clerk in court; but the said defendant hath not submitted to put in a further answer, although his time for so doing is expired by the rules of this court.

Your petitioner therefore most humbly prays your Honour, that it may be referred to one of the Masters of this court to look into your petitioner's bill, the defendant's plea and answer, and your petitioner's exceptions, and certify wherein the said plea and answer is insufficient.

*And your petitioner shall ever pray, &c.*

*Petition to renew a sequestration.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable the Lord High Chancellor of Great Britain.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT the defendant having refused to answer your petitioner's bill, all process of contempt to a sequestration hath been sued out against him, and a commission of sequestration hath been sued out, executed and returned; but your petitioner hath since discovered, that not above one third part of the said defendant's estate is sequestered, and that the said commission was committed to the hands of a person therein named, who neglected to sequester the said estate.

Your

Your petitioner therefore most humbly prays your Lordship that he may be at liberty to take out a new commission of sequestration to sequester the said defendant's estate, directed to new commissioners.

*And your petitioner shall ever pray, &c.*

*Petition to withdraw a replication and amend a bill, upon payment of twenty shillings costs to such defendants as have answered.*

Between *A. B.* ——— plaintiff,  
*C. D.* and others, defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT some time since your petitioner filed his bill in this honourable court against the said defendants, to which they appeared and answered, and your petitioner replied, but no witnesses have been yet examined in the said cause.

That your petitioner is since advised to amend his said bill, by adding *R. B.* a defendant with proper charges; and forasmuch as this is in your petitioner's own delay;

Your petitioner most humbly prays your Honour, that he may have leave to withdraw his replication, and amend this bill, as he shall be advised; on amending the copies of the said bill of such of the defendants who have answered the same, your petitioner not requiring any answer to such amended bill from the said defendants who have already answered.

*And your petitioner shall ever pray, &c.*

*Petition for subpoenas to rejoin, and that service on the clerk in court may be good, and to join and strike commissioners' names.*

Between *A. B.* ——— plaintiff,  
*C. D.* and others, defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner filed his bill in this court against the said defendants, who have appeared thereto and put in their answers to which your petitioner hath replied, and is desirous to speed his cause.

Your petitioner therefore humbly prays your Honour, that he may be at liberty to take out *subpoenas* to rejoin, returnable immediately, and that service thereof on the defendant's clerks in court may be deemed good service

on the defendants, and that your petitioner may be at liberty to sue out a commission for examination of his witnesses, returnable without delay, and that the defendant's clerks in courts do, in four days after notice hereof, join and strike commissioners' names with your petitioner's clerk in court, or, in default thereof, that your petitioner may have a commission directed to his own commissioners.

*And your petitioner shall ever pray, &c.*

*Note ; To the prayer of this petition may be added, And that your petitioner may be at liberty to examine in Term-time.*

*Petition to join and strike commissioner's names, or in default, to issue a commission ex parte.*

Between A. B. plaintiff,  
C. D. defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT on the ——— day of ——— last your petitioner was served with an order obtained upon the plaintiff's petition of the ——— day of ——— for a *subpœna* to rejoin, returnable immediately, and that service thereof on your petitioner's clerk in court should be good service, and that the petitioner's clerk in court should, in four days after notice join and strike commissioners' names with the plaintiff's clerk in court, or that in default thereof the plaintiff might sue out a commission directed to his own commissioners.

That your petitioner, upon receiving the same, was ready to comply with the terms therein mentioned, and accordingly applied to the plaintiff's clerk in court, to join and strike commissioners' names with him, who informed your petitioner's clerk in court, that he had not names, and put him off with trifling excuses.

That your petitioner has very good reason to believe that such excuses were made merely for delay; and in regard your petitioner hath several material witnesses, as he is advised, to examine, and is desirous the cause should be speeded;

Your petitioner most humbly prays your Honour, that the plaintiff's clerk in court may in four days after notice join and strike commissioners' names with your petitioner's clerk in court; or that in default thereof, your petitioner may sue out a commission for examination of witnesses, directed to his own commissioners.

*And your petitioner shall ever pray, &c.*



*Petition to alter a commissioner's name in a commission, and for liberty to renew the same, and for time to return it.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner last *Easter Vacation* took out a commission to examine witnesses, wherein the defendant joined, but your petitioner was not able to execute the same during that Vacation.

That your petitioner is in hopes of doing the same this Vacation; but one of the commissioners, (to wit) *T. B. Esq:* is engaged to be in *London*; whereupon your petitioner hath named the persons subscribed in his room, but the defendant refuses to strike the said names in hopes of delaying your petitioner, and that the vacation may be lost.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to alter the commission, and that your Honour will be pleased to appoint, which of the two persons subscribed shall stand in his room, and that your petitioner may be at liberty to renew the said commission, and to make the same returnable without delay.

*And your petitioner shall ever pray, &c.*

*Petition to examine a defendant.*

Between *A. B.* — plaintiff,  
*C. D.* and *E. F.* defendants.

*To the Right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT issue being joined in this cause, your petitioner is advised that the said defendant *E. F.* is a very material witness for your petitioner; and forasmuch as he is no way concerned in point of interest,

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to examine the said defendant *E. F.* at the examination of witnesses in this cause, as a witness for your petitioner, saving just exceptions.

*And your petitioner shall ever pray, &c.*

*Petition to add an interrogatory or two, but not to examine any witness already examined.*

Between *A. B.* plaintiff,  
*G. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sherweth,*

**T**HAT your petitioner obtained an order for a commission to examine witnesses returnable —, and accordingly examined several witnesses, and returned his commission, but before publication passed, the defendant obtained an order for a commission to examine witnesses this Vacation; and your petitioner has joined and struck commissioners' names for that purpose; but no notice is yet given of executing the said commission.

That your petitioner is advised it is necessary to add an interrogatory or two to his former set of interrogatories.

Your petitioner therefore humbly prays your Honour, that he may be at liberty to add an interrogatory or two to his former set of interrogatories. But so as not to examine any witness that hath already been examined.

*And your petitioner shall ever pray, &c.*

*Petition to enlarge publication,*

Between *A. B.* complainant,  
*G. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sherweth,*

**T**HAT on the — instant a rule was entered by the defendant's clerk in court for passing publication in this cause; which rule is not yet expired.

That your petitioner has not yet been able to examine any witnesses, though he has several material witnesses (as he is advised) to examine in this cause, without whose testimony he cannot safely proceed to a hearing.

Your petitioner therefore most humbly prays your Honour, that publication in this cause may be enlarged till the first day of the next Term.

*And your petitioner shall ever pray, &c.*

PETITIONS.

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*Petition to enlarge publication.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT a commission has been executed in this cause, and is returnable, since which the plaintiff hath given a rule to publish, but the same is not yet expired; and forasmuch as your petitioner hath several material witnesses to examine in this cause who live in and about the city of *London*;

Your petitioner therefore most humbly prays your Honour, that publication in this cause may be enlarged for a fortnight.

*And your petitioner shall ever pray, &c.*

*Petition to enlarge publication.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT this cause being at issue, several witnesses have been examined on the part of the plaintiff, and this day being the — day of —, a rule is entered by the plaintiff's clerk in court, for passing publication in this cause.

That by reason of your petitioner's and his solicitor's illness your petitioner has not been able to examine his witnesses this Vacation, although he hath several very material witnesses (as he is advised) to examine; and in regard your petitioner hath no intention to postpone the setting down this cause for hearing,

Your petitioner therefore most humbly prays your Honour, that publication in this cause may be enlarged for a month.

*And your petitioner shall ever pray, &c.*

## PETITIONS.

*Petition to enlarge publication, so as not to hinder setting down the cause, and for an original and cross cause to come on together.*

Between *A. B.* plaintiff,  
                  *C. D.* defendant.

And the said *C. D.* plaintiff,  
And the said *A. B.* defendant.

*To the right honourable, &c.*

*The humble petition of, &c.*

*Sheweth,*

**T**HAT these causes being at issue, commissions were taken out and executed, and witnesses examined thereupon in the last long Vacation.

That your petitioner (the plaintiff in the original cause) the twenty-first instant caused a rule to be given for passing publication in the original cause, but having several material witnesses (as he is advised) still to examine, and your petitioners having consented and agreed to the several matters contained in the prayer of this petition, your petitioners' clerks in court having subscribed their names testifying such consent,

Your petitioners therefore most humbly pray your Honour that publication may be enlarged in the original cause until the first general seal after this Term, and that publication may then pass in both causes, but not so as to hinder the plaintiff in the original cause from setting down the same for hearing this Term; and that the plaintiff in the cross cause may be at liberty to set down his cause to be heard at the same time.

*And your petitioner shall ever pray, &c.*

*Petition to enlarge publication, and for a commission to examine, &c.*

Between *A. B.* plaintiff,  
                  *C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT the plaintiff has given rules to produce witnesses, and to pass publication as of the last Term, but has not examined any witnesses.

That your petitioner hath several very material witnesses (as he is advised) to examine in this cause, without whose testimony he cannot safely proceed to a hearing; and forasmuch as your petitioner lives in, &c.

Your



Your petitioner therefore most humbly prays your Honour, that publication in this cause may be enlarged until the first day of the next Term, and that your petitioner may have a commission for examination of witnesses, and that the plaintiff's clerk in court may join and strike commissioners' names with your petitioner's clerk in court, in four days after notice to the plaintiff's clerk in court, or that, in default thereof, your petitioner may be at liberty to take out a commission this Vacation directed to his own commissioners.

*And your petitioner shall ever pray, &c.*

*Petition to serve a subpoena to hear judgment on a clerk in court, defendant absconding.*

Between *A. B.* ——— plaintiff,  
*C. D.* and others, defendants.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner's cause being set down to be heard on ——— day of ——— next ensuing, and *subpœnas* to hear judgment have been issued and served on all the defendants, except the defendant *C. D.* and the said defendant *C. D.* absconding and concealing himself, so that your petitioner is not able to serve him with a *subpœna* to hear judgment in this cause, as by the affidavit annexed appears;

Your petitioner therefore most humbly prays your Honour, that service of the said *subpœna* to hear judgment on the said defendant *C. D.*'s clerk in court may be deemed good service on the said defendant.

*And your petitioner shall ever pray, &c.*

*Petition to prove an exhibit viva voce at the hearing.*

Between *A. B.* plaintiff,  
*C. D.* defendant,

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT this cause being set down to be heard before your Honour, your petitioner is advised it will be necessary for him to prove, at the hearing thereof, a certain bond bearing date the ——— day of ——— entered into by the said defendant to your petitioner in the penalty of 1000*l.* conditioned for the payment of 500*l.* in interest.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty, at the hearing of this cause,

to examine one or more witness or witnesses *viva voce*  
to prove the said bond.

*And your petitioner shall ever pray, &c.*

*Petition that an answer taken in one cause may be read, and made use  
of at the hearing of another cause.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c,*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT your petitioner having exhibited his bill in this honourable court against the now plaintiff, for a discovery of their right and title to the several premises in question in this cause, to which the now plaintiff put in his answer ;

Your petitioner therefore most humbly prays your Honour, that he may be at liberty to read and make use of the now plaintiff's answer put into our petitioner's said bill at the hearing of this cause.

*And your petitioner, &c.*

*Petition that depositions taken in one cause may be read and made use  
of at the hearing of another cause.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT one Mr. *H. I.* a mortgagee of the premises in question in this cause, having some time heretofore exhibited his bill to foreclose in this honourable court against your petitioner and the now plaintiff, and issue being thereupon joined, several witnesses were examined in the said cause.

Your petitioner therefore most humbly prays your Honour, that he may be at liberty, at the hearing of this cause, to read and make use of the depositions taken in the said cause, saving all just exceptions.

*And your petitioner shall ever pray, &c.*

*Petition for leave to examine witnesses after publication, upon the usual affidavit.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT publication in this cause is passed, and the cause is set down for hearing before your Honour, but your petitioner having several material witnesses to examine, without whose evidence he cannot safely proceed to a hearing, and your petitioner, his clerk in court, and solicitor, having not seen or inspected the depositions taken in this cause, or otherwise published or caused to be published the same, as by the affidavit annexed appears;

Your petitioner therefore most humbly prays your Honour, that publication in this cause may be enlarged for a fortnight, and the cause adjourned for that time.

*And your petitioner shall ever pray, &c.*

For the form of an affidavit to be annexed to this petition, *vide* affidavits.

*Petition to set down a cause for rehearing on defendant's having made default, and not appearing at the hearing.*

*Sheweth,*

**T**HAT this cause came on to be heard the ——— day of ——— last, and your petitioner not attending, your Honour made the usual decree; and your petitioner being willing to pay to the plaintiff the costs of that day's attendance, whenever the plaintiff's clerk in court shall think fit to deliver your petitioner a bill of the same;

Your petitioner therefore most humbly prays your Honour, to appoint some short day for the hearing of this cause as to your petitioner.

*And your petitioner shall ever pray, &c.*

*Petition to set down a plea to be argued.*

Between *A. B.* ——— plaintiff,  
*C. D.* and others, defendants.

*To the right honourable the Lord High Chancellor of Great Britain,*

*The humble petition of the defendant C. D.*

*Sheweth,*

**T**HAT in ——— term last the plaintiff filed his bill in this honourable court against your petitioner and others, since which he has thought fit to amend the same.

That

That in ——— your petitioner put in his plea and answer to the said amended bill, which plea the plaintiff hath not yet set down to be argued.

Your petitioner therefore humbly prays your Lordship, that he may be at liberty to set down his plea to be argued; and that your Lordship would be pleased to appoint a day for the arguing thereof.

*And your petitioner shall ever pray, &c.*

*Petition to set down exceptions to a Master's report.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner hath lately filed exceptions to the report of Mr. *K.* one of the Masters of this court, made in this cause, bearing date the ——— day of ——— last past, and deposited 5 *l.* as by the Register's certificate hereunto annexed appears.

Your petitioner therefore must humbly prays your Lordship to appoint a short day for the arguing of the said exceptions.

*And your petitioner shall ever pray, &c.*

*Petition to set down a cause for hearing.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff.*

*Sheweth,*

**T**HAT publication is by order, bearing date the — day of —, to pass in this cause the first day of next Term; and your petitioner by the same order is to procure the said cause to be set down to be heard some time within the said Term.

Your petitioner therefore humbly prays your Honour, that this cause may be set down in the paper of causes for the last day of causes within the next term.

*And your petitioner shall ever pray, &c.*



*Petition to appoint a short day for a farther hearing on a Master's report.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT on the hearing of this cause on the ——— day of ——— 1767, it was ordered and decreed (as in the decree), and after the said Master should have made his report, such farther order should be made therein as should be just.

That in pursuance thereof the said Master hath made his report bearing date the ——— day of ——— last past in relation thereto.

Your petitioner therefore most humbly prays your Lordship to appoint a short day for the hearing of this cause on the said Master's report.

*And your petitioner shall ever pray, &c.*

*Petition that service of an order nisi on the clerks in court, may be good service.*

Between *A. B.* ——— plaintiff,  
*C. D. E. F.* and } defendants.  
*G. H.*

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT by the decree made on the hearing of this cause the ——— day of ——— 1789, it was referred to Mr. *H.* one of the Masters of this court, to compute what was due to your petitioner for principal, interest, and costs, for the sum of 500 *l.* secured to your petitioner on the premises in question in this cause.

That the said Master, by his report dated the ——— day of ——— 1790, certified to be due to your petitioner (on his said security) the sum of 700 *l.* for his principal, interest, and costs, and your petitioner having on the ——— day of ——— 1790, obtained an order of this court to confirm the said report, (unless cause), he has not been able to get the said order served upon the said several defendants, by reason the said defendants live at a great distance from each other in several counties of *England*, as by the affidavit annexed appears.

Your

## PETITIONS.

Your petitioner therefore most humbly prays your Honour, that service of the said order on the several clerks in court (who are concerned for the said several defendants in this cause) may be deemed good service on the said several defendants.

*And your petitioner shall ever pray, &c.*

*Petition to enter a decretal order nunc pro tunc.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of, &c.*

*Sheweth,*

**T**HAT upon the hearing of this cause the ——— day of ———, a decree was pronounced, which has since been drawn up and passed by the register; but the time for entering the same being elapsed by the rules of the court,

Your petitioner therefore humbly prays your Honour, that the said decretal order may be entered *nunc pro tunc*.

*And your petitioner shall ever pray, &c.*

*Petition to sign and inrol a decree nunc pro tunc.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT the time for signing and inrolling the decree in this cause is elapsed, according to the strict rules of the court,

Your petitioner therefore humbly prays your Honour, that he may be at liberty to sign and inrol the said decree *nunc pro tunc*.

*And your petitioner shall ever pray, &c.*

*A petition for an infant trustee to convey, pursuant to Stat. 7 Ann.*

*To the right honourable, &c.*

*The humble petition of M. C. widow and administratrix of J. C. Esq. deceased,*

*Sheweth,*

**T**HAT by indentures of lease and release bearing date the 26th and 27th days of July 1728, the said indenture of release, being tripartite, and made between *N. K.* of the town and

and county of *S.* merchant, of the first part, *T. M.* of the said town and county, merchant, and *E.* his wife, of the second part, and your petitioner's said late husband by the name of *J. C.* of *J.* in the county of *S.* Esq. of the third part, reciting as in the said indenture of release is recited, and for the considerations therein mentioned, the said *N. K. T. M.* and *E.* his wife did grant, release, and convey unto the said *J. C.* all that capital messuage or mansion-house, called or known by the name of *B. H.* otherwise ———, with its rights, members, and appurtenances, situate and being in the town of *S.* aforesaid, to hold to the said *J. C.* his heirs and assigns, subject to a certain condition or proviso of redemption on the payment of the principal sum of one thousand pounds and interest, by the said *T. M.* and *E.* his wife, or either of them, their, or either of their heirs, executors, administrators, or assigns, to the said *J. C.* his heirs, executors, administrators, or assigns, on the ——— day of *December* then next.

That the said money was not paid according to the said condition or proviso, and there now remains justly due and owing to the estate of the said *J. C.* upon the said mortgage, the principal sum of eight hundred pounds, with a considerable arrear of interest.

That the said *J. C.* the mortgagee is lately dead intestate, leaving *J. C.* his son and heir at law an infant, under the age of twenty-one years; and your petitioner being the widow of the said *J. C.* deceased, hath duly obtained letters of administration of his personal estate, and is thereby, amongst other things, become intitled to the principal money and interest now remaining due on the said mortgage.

That your petitioner is advised that the said *J. C.* the infant is a trustee of the legal estate of the said mortgage, for the benefit of your petitioner, and enabled to convey within the intent and meaning of the statute made in the 7th year of the reign of her late Majesty Queen *Anne*, intituled, *An act to enable infants who are seised or possessed of estates in fee in trust, or by way of mortgage, to make conveyances of such estates.*

Your petitioner therefore humbly prays that your Honour will be pleased to order the said *J. C.* the infant, to convey his legal estate in the said mortgaged premises to your petitioner, or as she shall direct; or that your Honour will make such other order for your petitioner's relief in the premises, as to your Honour shall seem meet.

*And your petitioner shall ever pray, &c.*

8 Jan. 1778.

*Let it be referred to a Master — to examine and certify whether this is a mortgage within the meaning of the said act, and how much is due, and to whom the mortgage money doth belong; and after the Master shall have made his report, such farther order shall be made as shall be just.*

*Petition for appointing a guardian of the person of an infant.*  
In Chancery.

*To the right honourable the Master of the Rolls.*

*The humble petition of M. R. an infant, of the age of thirteen years or thereabouts, and of R. W. Gent.*

*Sheweth,*

**T**HAT your petitioner the infant's late father *M. R.* of the borough of *C.* in the county of *W.* gent. by his last will and testament duly executed, bearing date the 24th day of *October*, 1790, among other things, gave and devised unto his wife *B. R.* your petitioner the infant's mother, all and singular his real and personal estates and effects, whether freehold, copyhold or leasehold, bonds, book debts, mortgages, bills, household furniture, money in the funds, or any other property of whatsoever kind, or wherever it might be, that he was possessed of or might be entitled to, in trust nevertheless for the education and maintenance of his only daughter your petitioner *M. R.* till she arrived at the age of 21 years.

That your petitioner the infant's late mother *B. R.* departed this life on or about the 1st day of *February*, 1794, intestate, leaving your said petitioner her only daughter and heiress at law, and your petitioner *R. W.* her brother, and the uncle of your petitioner the infant, and one of the next of kin to the said *B. R.* her surviving.

That your petitioner the infant had requested your petitioner the said *R. W.* to be the guardian of your petitioner the infant's person.

That by an order made by your Honour on the 11th day of *March*, 1795, it was ordered that it should be referred to Mr. *Eames*, one of the Masters of this court, to approve of a proper person or persons to be appointed guardian or guardians of your petitioner the infant during her minority. And it was further ordered, that all proper parties should have notice to attend the said Master thereon, and should be at liberty to propose such guardian or guardians; and it was further ordered that the said Master should state your petitioner the infant's age, and the nature and amount of her fortune, and what relations she has, and on what evidence or ground he approves of such person or persons to be appointed such guardian or guardians; and after the said Master should have made his report, such further order should be made as should be just.

That the said Master by his report bearing date the 16th day of *April* instant hath approved of your petitioner the said *R. W.* as a proper person to be appointed guardian of your said petitioner the infant's person.

Your



Your petitioners therefore humbly pray your Honour, that the said Master's said report may be confirmed, and that your petitioner the said *R. W.* may be appointed the guardian of your said petitioner the infant's person, or that your Honour will be pleased to make such other order in the premises as to your Honour shall seem meet.

*And your petitioner shall ever pray, &c.*

16th April, 1795.

Let all parties concerned attend me on the matter of this petition the next day of petitions. And hereof give notice forthwith.

R. P. ARDEN.

*The Master's Report.*

*In the matter of M. R. an infant.*

16th April, 1795.

**I**N Pursuance of an order made in this matter by the right honourable the Master of the Rolls bearing date the 11th day of *March* last, on the petition of the said *M. R.* the infant whereby it is referred to me to approve of a proper person or persons to be appointed guardian or guardians of the said petitioner during her minority, and that I do state the petitioner's age, and the nature and amount of her fortune, and what relations she has, and on what evidence or ground I should approve of such person or persons to be appointed such guardian or guardians. I have been attended by the solicitor for the said petitioner *M. R.* the infant, and by the solicitor for *R. W.* and *W. W.* his brother, both of *C. St. S.* in the county of *W.* gentlemen, the uncles of the said petitioner, *M. R.* the infant, by her mother's side, and also by the solicitor for *E. R.* of *F.* in the county of *B.* spinster, daughter of the said petitioner, *M. R.*'s late father's brother, and find by a state of facts laid before me on the part and behalf of the said petitioner, that *M. R.* of the borough of *C.* in the said county of *W.* gentleman, late father of the above named *M. R.* by his last will and testament, duly executed and attested, bearing date the 24th day of *October*, 1790, after payment of all his just debts and funeral expences, gave, devised and bequeathed, unto his wife, *B. R.* all and singular his real and personal estates and effects, whether freehold, copyhold or leasehold, bonds, book-debts, mortgages, bills, household furniture, money in the funds, or any other property, of whatsoever kind or wherever it might be, that he was possessed of or might be intitled to, in trust nevertheless for the education and maintenance of his only daughter, *M. R.* till she arrives at the age of twenty-one years; and in case of the death of his said daughter before she arrives at the age of twenty one years, he thereby gave and devised the whole of

of his said estates and effects, unto his said wife, and thereby nominated and appointed his said wife and *I. H. D. A.* executors of his said will; and the testator by his said will did order and direct that the sum of 30*l.* should be paid to the said *I. H.* for his trouble in the execution of the said trust: That the said *M. R.* departed this life on or about the 27th day of *October*, 1790, leaving the said *B. R.* and the said *M. R.* his only daughter him surviving without revoking or altering his said will, which will was proved by the testator's widow the said *B. R.* at *Salisbury*, the said *I. H.* the other executor declining to prove the same; that the said *B. R.* departed this life on or about the 22d day of *December*, 1793, intestate, leaving the said *M. R.* her only daughter and heiress at law her surviving; that the said *R. W.* and *W. W.*, (the said *W. W.* being deranged in his mind) are the uncles of the said *M. R.* the infant by the mother's side, which said *R. W.* is the eldest brother of the infant's mother, and that the said infant hath no other relations on the mother's side, and that the said infant hath no relation on the father's side, except the before named *E. R.* spinster, her late father's brother's daughter, now under the age of 21 years; that the said *M. R.* the infant, is of the age of 13 years or thereabouts: And I also find by the affidavit of the said *R. W.*, sworn by him on the 30th day of *March* last, that the estate to which the said *M. R.*, the infant, is entitled under the will of the said *M. R.* deceased, consists of freehold, leasehold and lifehold, estates in the parishes of *Cricklade St. S. C. St. M. and L.* in the county of *W.* and are of the yearly value of 70*l.* or thereabouts; that the amount of the personal estate to which the said *M. R.* is intitled, under and by virtue of the will of her late father *M. R.* is 100*l.* or thereabouts, and consists of plate, household goods, and furniture, a horse, drugs, and other effects, which real and personal estate are subject, as he the said *R. W.* believes to the payment of the said testator's debts; that the said *M. R.* is entitled as heiress at law to her late mother *B. R.* to a lifehold estate in the parish of *Castle-Eaton* in the said county of *W.* of the yearly value of 60*l.* or thereabouts; that the said *M. R.* is not entitled to any other property, real or personal, to the knowledge or belief of him the said *B. W.*; that the said *M. R.* was born sometime in the month of *February* 1782, as he the said *R. W.* believes, and that he the said *R. W.* and *W. W.* his brother, are the only relations of the said *M. R.* by the mother's side, as he the said *R. W.* knows or believes: and that the said *M. R.* hath no relations on her father's side to the knowledge or belief of him the said *R. W.*, except the before named *E. R.* spinster, her late father's brother's daughter, who is under the age of 21 years; that the said *W. W.* is deranged in his mind and not capable of transacting his own affairs: The said *M. R.* and *E. R.* therefore propose  
the

the said *R. W.* to be the guardian of the person of the said *M. R.*, the infant, during her minority. Upon due consideration of the matters hereinbefore stated, and on the evidence and ground herein before mentioned, I do humbly conceive that the said *R. W.* is a proper person to be appointed the guardian of the said *M. R.*, the infant during her minority, which I humbly certify to this honourable court.

J. EAMES.

*Petition for a person come of age to enlarge time for shewing cause against a decree.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the defendant,*

*Sheweth,*

**T**HAT upon hearing this cause before your Honour the — day of — 1789, your petitioner being then an infant, it was (amongst other things) decreed, That in default of your petitioner's paying what should be certified due to the plaintiff for principal, interest, and costs on the mortgaged premises in question, at such time and place as the Master should appoint, that then your petitioner might be absolutely foreclosed of all equity of redemption to the same, unless your petitioner (being the heir at law) upon service of a *subpœna* for that purpose, should within six months after he attains his age of twenty-one years, shew good cause to the contrary.

That your petitioner about three months since attained his age of twenty-one years, and hath been served with a *subpœna* accordingly.

That by reason of the Vacation your petitioner cannot apply to shew cause against the said decree (if he should be advised so to do), and for that the plaintiff cannot be a sufferer, being in possession of the premises.

Your petitioner therefore most humbly prays your Honour that he may have till the end of the next term to shew cause against the said decree, and that in the mean time the said plaintiff may be stayed from making the said decree absolute against your petitioner.

*And your petitioner, &c.*

*Petition to tax a solicitor's bill of costs.*

*To the right honourable, &c.*

*The humble petition of A. B.*

*Sheweth,*

**T**HAT your petitioner some time since employed one Mr. C. D. (one of the solicitors of this court, to prosecute, solicit, and defend for your petitioner, divers suits depending in this court, and several other matters, as your petitioner's attorney and solicitor.

That the said suits and matters being all along since concluded, your petitioner has often applied to the said Mr. D. to make out his bill of fees and disbursements, and to give your petitioner an account of what monies he had received of your petitioner for and on account of the same, and to give up and deliver to your petitioner all his deeds, papers, writings, books of account and vouchers, which he hath or ever had, belonging to your petitioner; your petitioner at the same time offering to pay and satisfy the said Mr. D. for what should appear to be justly due to him. But the said Mr. D. hath hitherto neglected to do the same.

Your petitioner therefore most humbly prays your Honour, that the said Mr. C. D. may be ordered to deliver to your petitioner his bill of fees and disbursements, and that the same may be referred to one of the Masters of this court to be taxed, and that the said Mr. D. may be examined upon interrogatories, or account upon oath, as the Master shall think fit, as to all sums received or paid by or to the said Mr. D. or to his use on account thereof, or touching any articles or charges in his said bill, and that on payment of what (if any thing) shall appear due to the said Mr. D. or in case he is overpaid, that he may refund and repay to your petitioner the overplus, and that he may be ordered to deliver to your petitioner upon oath, all deeds, papers, writings, books of account and vouchers, which he hath, or ever had, of or belonging to your petitioner; your petitioner hereby submitting to pay what shall appear due to the said Mr. D. and that all proceedings against your petitioner may be stayed till the Master shall have made his report.

*And your petitioner, &c.*



*Another of the like kind upon a bill delivered.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

*To the right honourable, &c.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner employed one *Mr. G. H.* (one of the solicitors of this court) to prosecute and solicit this suit.

That the said *Mr. G.* hath delivered a bill of fees and disbursements to your petitioner, which your petitioner conceives to be very extravagant; and the said *Mr. G. H.* threatens to sue your petitioner for the same, though your petitioner was always, and is still ready and willing, and hereby offers to pay the said *Mr. G.* his just fees and disbursements.

Your petitioner therefore most humbly prays your Honour, that it may be referred to one of the Masters of this court to tax the said *Mr. G.*'s bill, and that all proceedings at law against your petitioner may in the mean time be stayed.

*And your petitioner shall ever pray, &c.*

*Petition that a solicitor employed in the cause, may deliver his bill of fees and disbursements; and upon being paid, deliver up all papers, &c. in his custody.*

In Chancery.

Between *Richard Veale, Esq.* } plaintiffs, and  
and others, }  
*Oliver and others,* defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of John Veale, otherwise Scismey, otherwise Sismey, son and administrator of the said plaintiff Richard Veale,*

*Sheweth,*

**T**HAT your petitioner's late father, the said *Richard Veale*, late of *Plymouth*, in the county of *Devon*, doctor in physic, deceased, in his life-time employed *Mr. Joseph Taunton*, one of the solicitors in this honourable court, to prosecute this suit, and to solicit and defend for him the said *Richard Veale* divers other suits depending in this court, and several other matters as his attorney and solicitor.

That your petitioner's said father, the said *Richard Veale*, has lately departed this life, having first made and published his last

will and testament in writing duly executed, and thereby gave all his estate and effects, as well real as personal, to *trustees* and *executors* in such will named, in trust to be equally divided between your petitioner and his sister; and of such will appointed his brother *William Veale* and *Joseph Taunton* executors and trustees.

That the said *William Veale* and *Joseph Taunton* refused to prove such will, or to take upon them the burthen of the execution thereof, and regularly renounced the execution of such will, as well as letters of administration, with the will annexed of the goods of the said deceased *Richard Veale*.

That your petitioner, in consequence of the refusal of the said trustees and executors to prove such will, applied to the Prerogative Court of the archbishop of *Canterbury* for administration with the will annexed of his said father *Richard Veale*; and which was accordingly granted to your petitioner the 10th day of *March* 1788.

That the said *Joseph Taunton* refuses to prosecute and defend the said suits so instituted in this honourable court, and also refuses to deliver up to your petitioner the proceedings in such suits, and also *divers deeds and instruments* belonging to, and the property of, your petitioner, as administrator as aforesaid, although your petitioner as well by himself as agents, applied to him for that purpose: and the said *Joseph Taunton* also refuses to give your petitioner an account or bill of costs, of what sum or sums of money is or are due to him the said *Joseph Taunton*, on account of business done for your petitioner's late father the said *Richard Veale*, or for your petitioner as administrator with the will of the said *Richard Veale* annexed or otherwise.

That your petitioner doth hereby submit to pay the said *Joseph Taunton* what shall appear to be due to him on the taxation of his bill of fees and disbursements.

Your petitioner therefore most humbly prays your Honour, that the said *Joseph Taunton* may be ordered to deliver to your petitioner, or to Mr. *Anthony Hemming*, his present solicitor, a bill of all such fees and disbursements in this and all other causes or matters wherein he has been employed as solicitor or attorney for your petitioner, or for the said *Richard Veale*, your petitioner's father, deceased; and that it may be referred to one of the Masters of this court to tax such bill, and that the said *Joseph Taunton* may be examined upon interrogatories, or account upon oath, as the Master shall think fit, as to all sums received or paid by or to the said *Joseph Taunton*, or to his use on account thereof, or touching any articles or charges in his said bill, or otherwise; and that on payment of what, if any thing, shall appear due to the said *Joseph Taunton*, or in case he is overpaid, that he may refund and repay

repay to your petitioner the overplus; and that he may be ordered to deliver to your petitioner, or to his now said solicitor, upon oath, all deeds, papers, writings, books of account, and vouchers, which he hath, or ever had, of or belonging to the said *Richard Veale* deceased, or to your petitioner as administrator, with his will annexed, or otherwise, your petitioner hereby submitting to pay what shall appear due to the said *Joseph Taunton*; and that the said *Joseph Taunton* may be ordered to forthwith desist from prosecuting any suit on account of your petitioner.

*And your petitioner will ever pray, &c.*

*Usual order for solicitor to deliver his bill, &c.*

**T**HE petitioners submitting to pay the said ——— what shall appear to be due unto him on the taxation of his said bill, let him, in a fortnight after notice hereof, deliver unto the petitioner a bill of all such fees and disbursements as he claims to be due to him in these and all other causes and matters wherein he has been employed as solicitor or attorney for the petitioner, and let it be referred to Master ——— to tax such bill; and let the said ——— produce before the said Master, upon oath, as the Master shall direct, all papers and writings in his or their custody or power relating to such bill, or any of the items or charges therein; and let him there be examined upon interrogatories touching the same, and otherwise as the Master shall direct; and let the petitioner, pursuant to his said submission, pay the said ——— what shall appear to be due to him on the taxation of the said bill; and upon payment thereof, or in case such bill appears to be already paid, let him deliver unto the petitioner, on oath, all deeds, papers, and writings in his custody or power belonging to the petitioner; and if it appears that such bill is overpaid, let the said ——— refund and pay the petitioner what he is overpaid; and let all proceedings at law against the petitioner, on account of such bill, be stayed until the said Master shall have made his report.

*Common order to tax a solicitor's bill already delivered.*

**T**HE petitioners submitting to pay the said ——— what shall appear to be due to him upon the taxation of his bill, let it be referred to Master ——— to tax the said bill, and let the said ———, and also the petitioner, produce before the said Master, upon oath, as the Master shall direct, all papers and writings in their custody or power respectively relating to the said bill, or any of the items or charges therein, and let them be examined upon interrogatories touching the same, and otherwise

as the Master shall direct; and let the petitioner, pursuant to his said submission, pay the said ——— what shall appear to be due to him on the taxation of the said bill; and upon payment thereof, or in case the said bill appears to be already paid, let him deliver unto the petitioners, upon oath, all deeds, papers, and writings in his custody or power belonging to the petitioner; and if it appears that the said bill is overpaid, let the said petitioner ——— refund and pay the petitioner what he is overpaid; and let all proceedings at law against the petitioner on account of the said bill be stayed until the said Master shall have made his report.

June 1779.—*Usual order to tax a bill where an action brought on bill, &c.*

**T**HE petitioner submitting to pay the said (*Mary Paynter*) the \* whole sum that upon taxation of the said bill shall appear to be due to her, let it be referred to Master *Holford* to tax the said bill, and let the said (*Mary Paynter*), and also the petitioner, produce before the Master, upon oath, as the Master shall direct, all papers and writings in their custody or power respectively relating to the said bill, or any of the items or charges therein, and let them be examined upon interrogatories, touching the same, or otherwise, as the Master shall direct; and if it appears that there is any thing coming due to the said (*Mary Paynter*) on the taxation of the said bill, then let the Master proceed to tax the costs of the said action at law, and let the petitioner, pursuant to her said \* submission, pay the said (*Mary Paynter*) the whole sum that upon taxation of the said bill shall appear to be due to her, and also the costs of the said action at law; and upon payment thereof, or in case the said bill appears to be already paid, let her deliver unto the petitioner, on oath, all deeds, papers, and writings in her custody or power belonging to the petitioner; and let all further proceedings at law against the petitioner, on account of the said bill, be stayed until the said Master shall have made his report; but the petitioner is to procure the Master's report † in three weeks.

\* Take words of the submission from the petition, together with the costs of said action at law, if so submitted.

† The time for procuring the Master's report must be according to the time of business, as in vacation no report can be procured in three weeks.



*Petition of a defendant in a cause to restrain the payment of the costs incurred against him to the executrix of the solicitor, lately deceased.*

Between *William Hutchins*, plaintiff,  
*Richard Hoare*, Esq. defendant.

*To the right honourable the Lord High Chancellor of Great Britain,*

*The humble petition of Richard Hoare, Esq.*

*Sheweth,*

**T**HAT your petitioner and his partners employed Mr. *George Green*, lately deceased, as their solicitor in this cause, and also as their solicitor in other causes, (*viz.*) *Hoare v. Lord Weymouth*, *Hoare v. Kymer*, *Wellington v. Hoare*, and *Bristowe v. Hoare*.

That your petitioner and his partners paid the said Mr. *Green* all his costs in the several suits, except the sum of 160 *l.* which your petitioner hath, since the death of the said Mr. *Green*, paid to Mr. *Abel Jenkins*, who acts as attorney for Mrs. *Elizabeth Green*, the widow and executrix of the said *George Green*; and your petitioner apprehended, that on payment thereof, he should have received all the papers in the several before mentioned causes, but your petitioner is now informed that the said Mr. *Jenkins* hath it not in his power to deliver the same; for that the said Mr. *Green*, having employed Mr. *John Radcliffe*, of the Six Clerks office, as his clerk in court, and agent in these causes, he the said Mr. *Radcliffe* hath now in his hands most of the material papers in such causes, and which he refuses to deliver to your petitioner or his partners, or the said Mr. *Jenkins*, or Mrs. *Green*, insisting, that as the said Mr. *Green* died insolvent, and greatly indebted to him the said *John Radcliffe* for fees and disbursements in these causes, he hath a right to retain all such papers until such his demand on Mr. *Green* is fully satisfied.

That your petitioner is advised, that in case the said Mr. *Jenkins* is permitted to pay the said sum of 160 *l.* so received by him from your petitioner, to the said Mrs. *Green*, that the same will then be part of the personal estate of the said Mr. *Green*, and belong to his specialty creditors; and that your petitioner and his partners will then be debarred from having the said papers from the said Mr. *Radcliffe*, without again paying him his costs in the above mentioned causes.

Your petitioner therefore most humbly prays your Lordship, that the said *Abel Jenkins* may be restrained from paying the said sum of 160 *l.* or any part thereof, to the said Mrs. *Green*; and that he may be directed to pay the same, or such part thereof, as your Lordship shall think

proper to direct, to the said *John Radcliffe*; and thereupon he may be ordered to deliver to your petitioner, or his order, all papers and writings in his custody or power relating to your petitioner in these causes.

*And your petitioner shall ever pray, &c.*

23<sup>d</sup> July, 1774.

Let all parties concerned attend me on the matter of this petition, upon the next day of petitions.—  
Hereof give notice forthwith.

APSLEY, C.

*Order made upon the above petition.*

Lord Chancellor.—*Saturday* the thirtieth day of *July*, in the fourteenth year of the reign of His Majesty King *George the Third*, one thousand seven hundred and seventy four.

Between *William Hutchins*, - plaintiff,  
*Richard Hoare*, Esq; - defendant.

**W**HEREAS the defendant *Richard Hoare* did, on the twenty-third day of *July* instant, prefer his petition unto the right honorable the Lord High Chancellor of *Great Britain*, setting forth, that he and his partners employed Mr. *George Green* (lately deceased) as their solicitor in this cause, and also as their solicitor in other causes, (*viz.*) *Hoare* against Lord *Weymouth*, *Hoare* against *Kymer*, *Wellington* against *Hoare*, and *Bristowe* against *Hoare*: That the petitioner and his partners paid the said Mr. *Green* all his costs in the several suits, except the sum of one hundred and sixty pounds, which the petitioner hath, since the death of the said Mr. *Green*, paid to Mr. *Abel Jenkins*, who acts as attorney for Mrs. *Elizabeth Green*, the widow and executrix of the said *George Green*; and the petitioner apprehended, that on payment thereof he should have received all the papers in the several before-mentioned causes; but the petitioner is now informed, that the said Mr. *Jenkins* hath it not in his power to deliver the same; for that the said Mr. *Green*, having employed Mr. *John Radcliffe* of the Six Clerks office as his clerk in court, and agent in the said causes, he the said Mr. *Radcliffe* hath now in his hands most of the material papers in such causes, and which he refuses to deliver to the petitioner or his partners, or the said Mr. *Jenkins* or Mrs. *Green*, insisting, that as the said Mr. *Green* died insolvent, and greatly indebted to him the said *John Radcliffe* for fees and disbursements in the said causes, he hath a right to retain all such papers until such his demand on Mr. *Green* is fully satisfied: That the petitioner is advised, that in case the said Mr. *Jenkins* is permitted to pay the said sum of one hundred and sixty pounds so received by him from the petitioner to the said Mrs. *Green*, that the same will then be part of the

the personal estate of the said Mr. *Green*, and belong to his specialty creditors; and that the petitioner and his partners will then be debarred from having the papers from the said Mr. *Radcliffe*, without again paying him his costs in the above mentioned causes: It was therefore prayed that the said *Abel Jenkins* might be restrained from paying the said sum of one hundred and sixty pounds, or any part thereof, to the said Mrs. *Green*; and that he might be directed to pay the same, or such part thereof as his Lordship should think proper to direct, to the said *John Radcliffe*, and thereupon, that he might be ordered to deliver to the petitioner, or his order, all papers and writings in his custody or power relating to the petitioner in the said causes. Whereupon all parties concerned were ordered to attend his Lordship on the matter of the said petition this day; and counsel for the petitioner, for the said Mr. *John Radcliffe*, and for Mrs. *Elizabeth Green*, this day attending accordingly, upon hearing the said petition read, and of what was alleged by the counsel for the said parties, his Lordship doth order, That the said *Abel Jenkins* be restrained from paying the said sum of one hundred and sixty pounds, or any part thereof, until after the account hereafter directed; and it is further ordered, that it be referred to Mr. *Pratt*, one of the Masters of this court, to see what is due from the said *George Green* to the said Mr. *John Radcliffe* for his fees and disbursements, for business done in the before mentioned causes, on account of the said defendant *Richard Hoare* and partners; and it is ordered, that the said *Abel Jenkins* do, out of the said sum of one hundred and sixty pounds, pay to the said Mr. *John Radcliffe* what shall be reported due to him; and thereupon it is ordered, that the said *John Radcliffe* do deliver to the petitioner, the said defendant *Richard Hoare*, or to whom he shall appoint, all deeds, papers, and writings in his custody or power relating to the said petitioner and partners in the said causes; and, for better taking the above accounts, the parties are to produce, before the said Master, upon oath, all books of account, papers, and writings in their custody or power relating thereto, and are to be examined upon interrogatories as the said Master shall direct, who, in taking the said accounts, is to make unto the parties all just allowances.

Between *Thomas Truman,* - - plaintiff,  
*Elizabeth Horne* and others, - defendants:

And

Between *Mary Banks Brown,* and others, - plaintiffs,  
 The most noble *Harry Duke of Bolton,* } defendants.  
 and others, -

*To the right honourable the Master of the Rolls.*

*The humble petition of Elizabeth Green, the widow and executrix  
 of George Green, gentleman, deceased,*

*Sheweth,*

**T**HAT your petitioner's late husband employed Mr. *John Radcliffe*, one of the sworn clerks of the Six Clerks office as his clerk in court, and agent in the above and many other causes; and by means thereof, the said *John Radcliffe* had in his custody, at the time of the death of the said *George Green*, many papers and writings relating to such causes.

That there were at the time of the death of the said *George Green* considerable sums due to him for business done in these and other causes; and your petitioner's attorney having made out the bills, and delivered them to your petitioner's late husband's clients, some of them are ready to pay the same upon your petitioner's delivering to them the papers and vouchers in the causes; but the said *John Radcliffe* refuses to part with them to your petitioner, insisting, that as the said *George Green* was considerably indebted to him the said *John Radcliffe* for business done in the above and other causes, and, as the said *George Green* died insolvent, he the said *John Radcliffe* hath a right to retain all the said papers against your petitioner until his whole demands, as well in these as in such other causes, are satisfied; and therefore will not deliver up the same to your petitioner until all such costs are paid to him.

That your petitioner is advised the said *John Radcliffe* has a right only to retain the papers in each of the said causes until his demand in that particular cause is paid to him, and that he ought to deliver up to the said clients of the said *George Green*, the papers in each of the said causes on their paying to him his costs due to him from the said *George Green* in the said cause.

Your petitioner therefore most humbly prays your Honour, that the said *John Radcliffe*, on payment of what is due to him from your petitioner's late husband in these or any other particular causes, may be ordered to deliver up to your petitioner, or as she shall direct, all the papers and writings in such respective causes which are now in his custody or power.

*And your petitioner shall ever pray, &c.*

*Vide,*



*Vide, Farewell against Coker, 1 P. Will. 461.* Mr. *Farewell*, a country client, employs a solicitor in the country. He employs Mr. *Edwards*, a clerk in court. The client in the country pays his solicitor, but the clerk in court is unpaid. The client not bound to pay the clerk in court. But the Lord *Chancellor* declared, "all he could do for the clerk in court was, to take no papers out of his hands till paid; and if any thing be remaining due in Mr. *Farewell's* hands, he would stop it, and the same should be paid to *Edwards* the clerk in court."

*Order made upon hearing the above petition.*

Master of the Rolls.

Friday the 19th day of *February*, in the 13th year of the reign of his Majesty King *George the Third*, 1773, between *John Williams, Esq;* and *Mary Charlotte* his wife, *Mary Banks Brown*, and *Jean Mary Brown Powlett*, plaintiffs; the most noble *Harry Duke of Bolton*, and others, defendants: and between the said *Duke of Bolton*, plaintiff; the said *Mary Banks Brown*, and others, defendants: and between Sir *John Saint Aubyn*, Baronet, plaintiff; Sir *John Moleworth*, Baronet, and *John St. Aubyn*, defendants: and between *James Buller, Esq.* plaintiff; the said Sir *John Saint Aubyn*, Baronet, and another, defendants: and between *Moor Green*, plaintiff; *Thomas Symonds, Esq;* and others, defendants.

UPON opening of the matter this present day unto this court by Mr. *Perryn*, being of counsel with Mr. *John Radcliffe*, one of the sworn clerks of this court, it was alleged that Mr. *George Green*, late a solicitor of this court, employed the said Mr. *Radcliffe* as his agent and clerk in court for the said *John Williams*, and *Mary Charlotte* his wife, *Mary Banks Brown*, *Jean Mary Brown Powlett*, *Francis Banks*, Sir *John Saint Aubyn*, Baronet, *Moor Green*, *Thomas Symonds*, and *Thomas Foley, Esqrs.* parties in one or more of these causes; and also for *Thomas Cooke*, the late receiver appointed in the last-mentioned cause: That the said Mr. *Radcliffe* annually delivered to the said Mr. *Green*, his bills in *Trinity* vacation; and since the death of the said Mr. *Green*, which happened in *Hilary* vacation 1772, the said Mr. *Radcliffe* hath delivered his bill from *Trinity* term to the time of the said Mr. *Green's* death, to Messrs. *Jenkins* and *Bray*, who are employed by *Elizabeth Green*, the widow and executrix of the said Mr. *Green*, when they informed the said Mr. *Radcliffe*, that Mr. *Green* died considerably indebted and insolvent, they cannot pay the said Mr. *Radcliffe* any part of his bill; it was therefore

prayed

prayed that the said *John Williams*, Esq; and *Mary Charlotte* his wife, *Jean Mary Brown Powlett*, *Francis Banks*, dame *Elizabeth Saint Aubyn*, the executrix of the said Sir *John Saint Aubyn*, Baronet, deceased, *Moor Green*, *Thomas Symonds*, and *Thomas Foley*, Esqrs. *John Cooke* and *Mary Pridmore*, the executors of the said *Thomas Cooke*, may pay to the said *John Radcliffe* what is due from them respectively, to the said *George Green* for fees and disbursements in the said several suits, not exceeding what is due from the said *George Green* to the said *John Radcliffe* on the account aforesaid, and may be restrained from paying to the said *Elizabeth Green*, the widow and executrix of the said *George Green*, any part of such fees or disbursements; and that the said *Elizabeth* may be restrained from receiving the same until the said *John Radcliffe* shall be fully paid his said fees and disbursements: Which, upon hearing of Mr. *Bicknell*, of counsel with the said dame *Elizabeth Saint Aubyn*, and Sir *John Saint Aubyn* the son, *Moor Green*, *Thomas Symonds*, and *Thomas Foley*, Esqts. *John Cooke* and *Mary Pridmore*, and Mr. *Kenyon* of counsel with the said *John Williams*, esq; and *Mary Charlotte* his wife, *Mary Banks Brown*, *Jean Mary Brown Powlett*, and *Francis Banks*, who respectively did not oppose the same; and Mr. Solicitor General, of counsel with the said *Elizabeth Green*, is ordered accordingly\*.

\* *Easter Term*, 2 Geo. III. B. R. 1762.

*Rex versus Smollet,*  
*Rex versus Hamilton.*

Monday, 10th May, 1762.

Mr. Solicitor General moved on *Thursday* last in behalf of Mr. *Barlow*, clerk in court for Admiral *Knowles*, the prosecutor in these causes, to whom the executrix of his late attorney Mr. *Chapone* (lately deceased) had delivered a bill, which included Mr. *Barlow*'s bill in these causes; which bill of Mr. *Barlow*'s had already been taxed, as well as Mr. *Chapone*'s own bill. That Mr. *Knowles* might be at liberty to pay to Mr. *Barlow* his bill as clerk in court; and that on payment of the remainder of Mr. *Chapone*'s bill to the executrix of *Chapone*, she should deliver up to him all his papers and writings remaining in her hands.

2d Sir J. S. 1126.—And he cited a case in *Hilary Term* 1739. 13 Geo. 2. B. R. where the like rule had been made for the payment to Mr. *Henry Walrond*, by Sir *John Rushout* and Mr. *Rudge*, of Mr. *Walrond*'s bill, after the death of Mr. *Ingram*, attorney for Sir *John Rushout* and Mr. *Rudge* in the *Eversham* causes; which bill of Mr. *Walrond*, as clerk in court in a cause between the King and *Biddle*, was included in Mr. *Ingram*'s bill delivered to them.

Lord *Mansfield* said, it was so plain and so obviously just and reasonable, that it did not want any precedent to support it; accordingly a rule was made to shew cause: and it was now made absolute.

*Petition that deposition may be opened, published, copied, and sealed up again.*

Between *J. C.* plaintiff, and  
*G. G.* and *H. H.* defendants.

To, &c.

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner filed his bill in this honourable court against said defendants, and obtained order to examine witnesses, *de bene esse*, and several were examined by commission in the country accordingly; and particularly one *James Haines* was examined by your petitioner, and cross examined by defendant *G. G.* on such commission, which said *James Haines* is since dead, and the said defendant having brought an action against your petitioner for (*set out nature of action*), for the trial whereof at the sittings after this present *Easter Term*, in his Majesty's Court of *King's Bench*, for the city of *London*, notice is given.

Your petitioner therefore most humbly prays your Lordship, that the said commission may be opened by the clerks in court for plaintiff and for defendant *G. G.* and that the deposition of the said *James Haines*, on his original and cross examination, may be published, copied, and examined; and then that said commission and depositions be closed and sealed up again by said clerks in court, under their hands and seals.

*And your petitioner, &c.*

28th April 1789. Be it so, being consented to by clerk in court for *G. G.* Hereof give notice forthwith.

*Thurlow, C.*

I consent to the prayer of the above petition, if your Lordship thinks fit to order the same.

*Petition that serving writ of execution on clerk in court of absconding defendant may be good service on him.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

To, &c.

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT by decretal order made on hearing this cause, it was referred to Master *Ord*, to take an account of all dealings and transactions between your petitioner and defendant; and

and that what the Master should find to be due on balance, should be paid accordingly.

That Master by his report, dated ———, certified there was due from defendant to your petitioner, on balance of the aforesaid account, the sum of ———.

That by order dated ———, said report was confirmed, unless cause, and on affidavit of defendant's secreting himself, by your Honour's order, dated ———, it was ordered, that service of the last mentioned order, on defendant's clerk in court should be good service, and by order of ——— said report was absolutely confirmed.

That, in order to enforce obedience to said decree, on the ——— day of ———, your petitioner caused writ of execution of said decretal, and other orders, and Master's report, to be sealed; and from that time to this, hath used repeated endeavours to serve defendant therewith, but he so secretes himself, that your petitioner hath not been able so to do; as by affidavit annexed appears.

Your petitioner therefore most humbly prays your Honour, that leaving copy of said writ of execution at defendant's house, together with service thereof on his clerk in court, may be deemed good service on said defendant.

*And your petitioner, &c.*

*Petition to vacate recognizance of Receiver and his Sureties.*

Between M. C. ———, plaintiff,  
W. R. and others, defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of C. B.*

*Sheweth,*

**T**HAT by order made in this cause 13th February last, it was referred to Master Ord to appoint a receiver of the rents and profits of the testator's real estate, and pursuant thereto, said Master appointed your petitioner receiver thereof.

That on 23d day of July, 1770, your petitioner, together with H. B. and L. C. entered into a recognizance to the right honourable the then Master of the Rolls, and Thomas Harris, Esq. then one of the Masters of this court, in the sum of 500 l. each, with condition for your petitioner's duly and annually accounting for what he should receive out of the rents and profits of the said estate, and answering and paying same, according to the direction of the court.

That your petitioner hath passed his account down to Lady-day last, and said Master hath by his report certified, there then remained



remained in your petitioner's hands, on the balance of his account, the sum of ———, which belonged to the defendant *W. R.*

That by an order made in this cause, 6th day of *June* last, it was ordered, that your petitioner should deliver to the defendant *W. R.* possession of so much of testator's real estate as then remained unsold, and that he should pay to said *W. R.* the said sum of ———, the balance remaining in your petitioner's hands, as aforesaid, and thereupon he was to be discharged from the said receivership, and be at liberty to apply to court to have the recognizance, entered into by him and his sureties, vacated.

That possession of said testator's real estate then remaining unsold, hath been accordingly delivered to said *W. R.* and said balance of ———, so as aforesaid, reported to be in the hands of your petitioner, hath also been paid to said *W. R.* pursuant to said order.

Your petitioner therefore most humbly prays your Honour, that said recognizance entered into by your petitioner and his said sureties as aforesaid, may be vacated; and that the proper officer may attend your Honour with the record of the said recognizance for that purpose.

*And your petitioner, &c.*

*Petition for further adjourning cause.*

Between *D. W.* ——— ——— plaintiff,  
*C. M.* his wife, and others, defendants.

*To the right honourable the Master of the Rolls.*

*The humble petition of the plaintiff,*

*Sheweth,*

**T**HAT your petitioner having procured his cause to be set down to be heard before your Honour for *Easter* Term last, your petitioner served all the defendants (except the defendant *C. M.*) with *subpœnas* to hear judgment, but the said *C. M.* being a person very difficult to be met with, your petitioner could not serve him with *subpœna* to hear judgment; and thereupon your petitioner obtained an order, bearing date 10th day of *May* last, to adjourn the cause to the first day of causes in *Easter* Term next; and accordingly your petitioner took out another *subpœna* to hear judgment, 28th of this instant *April*, in hopes your petitioner should have been able to have served him therewith; but said *C. M.* having no settled place of abode, and being so very difficult to be met with, your petitioner hath not  
been

been able to serve him with the last-mentioned *subpoena*, although your petitioner hath used all possible means for that purpose; and in regard the adjourning this cause is in your petitioner's own delay, and same stands last in your Honour's paper for the 1st day of causes in the ensuing term;

Your petitioner therefore most humbly prays your Honour, that this cause may stand further adjourned to the first day of causes in *Trinity Term* next.

*And your petitioner, as in duty bound, shall ever pray, &c.*

*Petition for delivering up committee's bond, in order that the same may be cancelled.*

*In the matter of the late J. B. lunatic, deceased.*

*To the right honourable the Lord High Chancellor of Great Britain,*

*The humble petition of H. H. surviving executor of C. B. deceased, late committee of J. B. lunatic, deceased,*

*Sheweth,*

**T**HAT a commission of lunacy having issued against the said *J. B.* the lunatic, *C. B.* late of the city of *B.* merchant, his brother, was appointed committee of the said lunatic's person and estate.

That in the month of *December 1777*, the said *J. B.* the lunatic, departed this life a bachelor, leaving the said *C. B.* his brother, *M. H.* of the said city of *B.* widow, his sister, and your petitioner, and *J. H.* since married to *J. F.* the younger, of *Clifton*, in the county of *Gloucester*, Esq. the only children of *J. H.* then deceased, another sister of the said *J. B.* the lunatic, his only next of kin.

That the said *J. B.* the committee, after the decease of the said *J. B.* the lunatic, duly paid and discharged all the debts of the said lunatic then due; and accounted with the said *M. H.* and your petitioner's said sister *J. H.* for the personal estate of the said *J. B.* the lunatic, and paid them their respective distributive shares of the said personal estate.

That your petitioner, the said *M. H.* and your petitioner's said sister *J. H.* did by deed poll, bearing date 9th *July 1778*, release the said *C. B.* his heirs, executors, and administrators, and also the real and personal estate of the said *J. B.* the lunatic, deceased, from all claims and demands, on account of the said *C. B.* having acted in the management of the real and personal estate of the said lunatic, or which they the said *M. H.* your petitioner,

tioner, and his said sister, then had or might have against the real and personal estate, for any matter, cause or thing relating thereto.

That the said *C. B.* the committee, departed this life some time in the month of *October* last, having first duly made and published his last will and testament in writing, and thereof appointed your petitioner and *T. D.* of the said city of *B.* merchant, since also deceased, executors, who have duly proved same.

That *H. H.* your petitioner's late father, (one of the obligors in a certain bond entered into by the said *C. B.* deceased, and *J. H.* of *Westbury* upon *T.* in the county of *G.* Esq.) is dead, and your petitioner is his eldest son and heir at law, and also sole executor named in the last will and testament of the said *H. H.* deceased.

Your petitioner therefore most humbly prays your Lordship that the bond entered into by the said *C. B.* deceased, the committee of the said lunatic, and his sureties, may be delivered up to your petitioner, to be cancelled.

*And your petitioner shall ever pray, &c.*

*Petition for a commission of sewers.*

*To the right honourable Edward Lord Thurlow, Lord High Chancellor of Great-Britain, and the Lord Chief Justices of both benches at Westminster.*

*The humble petition of several land-owners and occupiers of the Western parts of the county of ——— and limits herein after mentioned, whose names are hereunto subscribed, for and on the behalf of themselves, and the rest of the said land-owners, and occupiers within said Western part,*

*Sheweth,*

**T**HAT the last commission of sewers, for the said Western part and limits, and the borders and confines of the same is now expired.

Your petitioner therefore most humbly prays your Lordships to grant a new commission of sewers, for the said Western part, limits, borders and confines of the same, directed to the persons named in the list hereunto annexed, or to such others as to your Lordships shall seem meet.

*And, &c.*

Let a commission of sewers for the Western parts of the county of ——— issue, directed to the several persons in the list hereunder named.

*Thurlow, C.*

*Kenyon,*

*Loughborough.*

*J. M.*

*T. S.*

*J. F.*

*J. H.*

*W. F.*

*T. N.*

N. B. Lord Chancellor's secretary hath a fee of one guinea for procuring same to be signed by his Lordship; and each of the Chief clerks half a guinea; the whole expence is about fifteen pounds.

*Petition to supersede commission of bankrupt.*

" *In matter of Francis Gibbons, bankrupt.*

" *To the right honourable the Lord High Chancellor of Great Britain.*

" *The humble petition of the said Francis Gibbons, the bankrupt,*  
" *Sheweth,*

" **T**HAT a commission of bankrupt, under the great seal  
" of Great Britain, bearing date at *Westminster*, the  
" — day of *June* 1778, was awarded and issued against  
" your petitioner, upon the petition of *Charles Jones* of, &c.  
" which commission was directed to certain commissioners  
" therein specially named and authorized, the major part of  
" whom found and declared your petitioner bankrupt\*."

† Instead of this allegation, you may insert the following one,  
viz. " That the several persons whose names are hereunto  
" subscribed, are all the creditors of your petitioner, who have  
" proved or claimed any debt under the said commission, as by  
" the † certificate of the said commissioners hereunto annexed  
" appears, and as all the said creditors of your petitioner are  
" consenting that the said commission should be superseded,  
" and

\* And if the facts be so, you add here, "and executed an assignment of your petitioner's estate and effects to *John Partridge* and *Charles Dennis*, and your petitioner hath finished his last examination before the said commissioners."

† " That the said *Charles Jones*, the petitioning creditor, is the only creditor of your petitioner, who hath proved a debt under the said commission, as by the certificate of the said commissioners, hereunto annexed, appears, and as the said *Charles Jones* is consenting that the said commission should be superseded, and for that purpose hath signified his consent in writing to the prayer of this petition, at the foot hereof, as by affidavit also annexed appears.

" Your petitioner therefore, &c." [as before.]

‡ Certificate § of the commissioners to the great seal of the proceedings had under the commission, to supersede the same.

" In the matter of  
" *Francis Gibbons,*  
" bankrupt.

" To the right honourable the  
" lord high chancellor of Great  
" Britain.

" We whose names are hereunto subscribed, being the major part of the commissioners named and authorized in and by a commission of bankrupt, bearing date at  
" *Westminster*, the — day of *June* 1778, awarded and issued against *Francis Gibbons*, of, &c. directed to us *Thomas Nugent*, *John Gascoigne Fenshawe*, esquires,  
" and



" and for that purpose have signified their consents in writing  
 " to the prayer of this petition, at the foot hereof, as by  
 " affidavit also annexed appears. (Which see among affidavits.)

" Your petitioner therefore most humbly prays your Lord-  
 " ship would be pleased to order that the said commis-  
 " sion of bankrupt awarded and issued against your  
 " petitioner as aforesaid, be immediately superseded  
 " and

" and *John Aston*, gentleman, together with *John Scot*, esquire, and *Samuel Denison*,  
 " gentleman, do humbly certify to your lordship, that we the major part of the said  
 " commissioners on the said — day of *June*, having begun to put the said com-  
 " mission into execution, against the said *Francis Gibbons*, did find, that the said  
 " *Francis Gibbons* did, before the date and suing forth of the said commission, be-  
 " come bankrupt within the intent and meaning of the several statutes made, and now  
 " in force, concerning bankrupts, some or one of them, and did therefore declare: the  
 " said *Francis Gibbons* bankrupt accordingly. And we the said commissioners do fur-  
 " ther certify to your Lordship, that *Charles Jones*, *John Partridge*, *John Leigh*, *John*  
 " *Meritt*, *James Welch*, *Charles Dennis*, *George Adams*, *Edward Smith*, *Robert Bond*,  
 " *Charles Meriton*, *George Welsh*, *Jonas Strong*, *James Lally*, *Daniel Goadler*,  
 " *Charles Church*, *John Lloyd*, *Peter Saintbull*, are the only creditors of the said  
 " *Francis Gibbons*, who have proved debts under the said commission. " And we the  
 " said commissioners do further humbly certify to your lordship, that we did meet  
 " pursuant to notice in the *London Gazette* for that purpose, on — the — day  
 " of the said month of *June*, for the proof of debts †, and on — the —  
 " day of the said month of *June*, for the choice of assignees ‡ of the said bankrupt's  
 " estate and effects, *when* || no other creditor proved or claimed any debt under the  
 " said commission, at either of the said sittings. Witness our hands this  
 " — day of *July*, in the year of our Lord 1778."

*Thomas Nugent,*  
*John G. Fenshawe.*  
*John Aston.*

*Memorandum of the commissioners signing the above certificate.*  
 At, &c.

" **BE IT REMEMBERED**, that we whose names are hereunto subscribed, being the  
 " major part of the commissioners named and authorized, in and by a commission of  
 " bankrupt awarded and issued, and now in prosecution against *Francis Gibbons*, of  
 " &c. met the day and year, and at the place aforesaid, and at the instance of all  
 " the said bankrupt's creditors under the said commission, made our certificate,  
 " and thereby certified to the right honourable the lord high chancellor of Great  
 " Britain that we the said commissioners had declared the said *Francis Gibbons* bank-  
 " rupt, and that the said *Charles Jones*, &c. [as before in petition] were the only cre-  
 " ditors who had proved or claimed any debt under the said commission §. Witness  
 " our hands this — day of *July* 1778."

*Thomas Nugent,*  
*John Scot,*  
*Samuel Denison.*

† " When *John James*, *James Bently*, *Mary Combs*, &c. proved debts under the  
 " said commission;" *if the fact be so.*

‡ " When *John Partridge*, of, &c. and *Charles Dennis*, of, &c. were duly chosen  
 " assignees of the estate and effects of your petitioner;

" and and and  
 " and and proved debts under the  
 " said commission;" *if the fact be so.*

|| If the certificate be altered as in notes, this word "*when*" must be "*and*"  
 " to make it sense.

§ If any other proceedings were had, you must set them forth as in certificate.

“ and that a writ of *superfedeas*, do forthwith issue for  
 “ that purpose, at your petitioner’s \* expence.

“ *And your petitioner shall ever pray, &c.*

July 1778. “ Filing the certificate of the com-  
 “ missioners, and the affidavit of — be it  
 “ as prayed.

“ *Bathurst, C.*

“ We whose names are hereunder written do hereby most  
 “ humbly testify and declare our consents to the prayer of this  
 “ petition, in case your Lordship shall be pleased to grant the  
 “ same. Witness our hands this — day of July 1778.” If  
 there happens to be only one creditor, you say, “ I the above-  
 “ named *Charles Jones*, do, &c.” [*as above.*]

\* If the application to supersede the commission be from the misbehaviour of the  
 petitioning creditor, you may pray that the *superfedeas* be at his expence.

### Of Motions.

A MOTION is a prayer or request, *ore tenus*, of the party to  
 the court, either in person or by counsel. *Prac. Reg.*  
 245.

And some motions are of course, that is, where by a standing  
 rule, or the known course of the court, the thing requested is  
 to be granted without hearing both sides : on these motions no  
 notice is necessary, nor will the court hear any defence against  
 motions of course ; but the adverse party may move to set them  
 aside, if the orders so obtained be to his prejudice, or obtained  
 upon a false suggestion. *Ibid.*

And note ; most matters of course may be granted on petition,  
 as well as on motion to the court.

Other motions there are, which would be also of course, if the  
 facts alledged stood single by themselves ; but because there may  
 be some other fact or circumstance in the case, locked up in the  
 breast of the party, which the court cannot then see, and such  
 motion requested seems to be of an extraordinary nature ; there-  
 fore in such cases, the court usually grants such orders only *nisi*,  
 although there may have been notice of motion given. *Ibid.*

There are likewise other motions which are not grounded on  
 the general rules of the court, but are sometimes beside, or against  
 it ; and these are granted or denied according to the discretion  
 of the court, after hearing counsel on both sides. *Prac. Reg.*  
 245.

All motions made on extraordinary occasions, are very rarely  
 granted without notice ; and generally in such cases an affidavit  
 of the facts alledged must be read in court, and notice of motion  
 in

in writing signed by the party, his agent, or solicitor, must be served upon the adverse clerk in court, or left at his seat in the Six Clerks' office, with his clerk or agent; and before the motion is made, an affidavit of the service of the notice must be made and filed at the affidavit office, and an office copy thereof taken if the adverse party do not attend, and notice is required to be proved. *Ibid.* 246.

Every notice of motion must be given two days at least before the day on which it is to be made; or, in more plain terms, the day next but one before the day on which the motion is to be made, unless such intervening day be *Sunday*; as if the motion is to be made on *Thursday* the notice must be on the *Tuesday* preceding, or on *Friday*, if the motion is to be made on the *Monday* following. *Ibid.*

Where notice is necessary, every thing the party moves for should be expressed; for the court will not ordinarily extend the order beyond the notice; as when notice was, that the court would be moved, "that the plaintiff might be put into possession, and a receiver appointed," the court would not order that nothing should be received by the defendant in the mean time, though the defendant did not defend the motion; so notice was given of a motion to supersede an *excommunicato capiendo*, because the Bishop's seal was not to the *significavit*; which, upon the motion happening otherwise, the counsel would have insisted, that the *excommunication* was before the last general pardon; but the court would not hear them to that till another day, and because there was no notice given of this exception, which there ought to have been, though there needed none with respect to the other exception; for that any one, as *amicus curie*, might have shewn, had the same been true. *Prac. Reg.* 246, 247, 248.

A notice of motion to receive money out of court, must be served upon the party himself, unless the court, upon a previous motion, has ordered so many days notice to the clerk in court, as may be sufficient to send his client notice, and to have his answer; or if he be in the kingdom, and hard to be found, upon an affidavit thereof, such notice may be ordered to be served upon the clerk in court. 1 *Px. Alm.* 40.

During the term, every *Thursday* is a day appropriated for motions only, except it happens to be the second day of the beginning, or the last day but one of the end of the term; so the first and last days of the term are days for motions only; but motions of course may be made any day in term at the rising of the court; and *sometimes*, under particular circumstances, special motions are allowed to be made, if the same are of great importance, and not of very great length. *Prac. Reg.* 248.

In the vacation, seal days are only days of motions, and are appointed by the Lord Chancellor: but the morning after the term, motions are always made at the Rolls, upon a supposition



probably that some may remain, which should have been moved, but could not, the last day of the term. No motions are heard after the last general seal after term, till the first general seal before the ensuing term; but things which require dispatch, may be petitioned for, and right will be done; for this court is always open. *Prac. Reg.* 248.

Motions may stand over to be heard another day when the court thinks fit; and if a notice of motion be given thrice, and not moved, the party giving it shall not move the same notice a fourth time; but the adverse counsel, upon producing the four notices, may pray the court that the party may pay the costs of the three former notices before he moves the fourth notice, which the court generally orders; and if it be matter of weight and many counsel employed, the court will order costs to be taxed by a Master.

But where, by reason of the absence of a counsel, who should have defended a motion, the court thinks fit to put it off for that time, the former notice is often ordered to be continued or saved, so as the matter may be moved another day upon notice to such absent counsel only. *Ibid.* 249.

Many motions are now made touching the regular issuing forth and execution of commissions, process, and other matters of course, which were heretofore commonly referred to four of the Six Clerks not in the cause, who hearing the other two clerks towards the cause, did easily determine the question, without delay or charge to the suit. *P. H. Ch.* 33.

*Note,* It has been said, that there is seldom occasion for more than one motion in a cause, *viz.* for an injunction for quitting possession, or staying suits at law; other motions being for the most part useless, or not tending to end, but to perplex the cause; and a cause would be soon ready for hearing, if it went on in an orderly course by pleadings and proofs, without being crossed by frivolous motions; wherefore the solicitor ought to be very careful not to lead his client to needless and expensive motions. 3 *Px. Alm.* 12. So on a day of motions, it was anciently the custom, that the Register read over in court, before the Chancellor, all the orders of the day. *Prac. Reg.* 250.

The variety of shapes in which motions are made in this court to obtain relief, according to the peculiar circumstances of each case, render it impossible to state every possible form in which a notice of motion may be given: the following forms of notices in ordinary cases may be so far descriptive of the general outlines of a notice of motion, as to give an idea to the young practitioner of the form in which notices of motions are generally conceived, from whence he may adapt the notice according to the relief prayed.



In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.Mr. *J. N.*

**T**AKE notice, that the defendant intends to move this honourable court on *Thursday* next the 20th instant, (if in the vacation you add, "*being the first after general seal term,*") or so soon after as counsel can be heard, that the time for redeeming the mortgaged premises in question in this cause, may be enlarged for three months. Dated this — day of — 1790.

Yours, &amp;c.

*F. B.* solicitor for the said  
defendant.To Mr. *J. N.*

Plaintiff's clerk in court.

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.Mr. *B. Y.*

**T**AKE notice, that the defendant intends to move this honourable court on *Thursday* next, being the 20th instant, or so soon after as counsel can be heard, that the plaintiff's bill may stand dismissed out of this court, for want of prosecution, with costs to be taxed by one of the Masters of this court. — Dated this — day of — 1790.

*Motion to invest a sum of money in the 3l. per cent. annuities, and to appoint a receiver to get in the arrears of rent.*

In Chancery.

Between *A. B.* plaintiff, and  
*C. D.* defendant.Mr. *Barker,*

**T**AKE notice that this court will be moved on *Thursday* the 20th day of *March* next, being the third general seal after *Hilary* Term, or so soon after as counsel can be heard, on the part and behalf of *A. B.* the plaintiff above named, that the sum of 2338 *l.* 12 *s.* 5 *d.* cash in the Bank, standing in the name of the Accountant General of this court, in trust in this cause, may be laid out and invested in Bank 3 per cent. consol. annuities, in the name and with the privity of the said Accountant General, subject to the further order of this court; and that *Goodman Roberts*, the late receiver of the rents and profits of the estates in question in this cause, may pay into the Bank, in the name of the said Accountant General, in trust in this cause, the sum of

500 *l.* being the balance in his hands, upon the foot of his last account; and that the same, when so paid in, may be laid out and invested in like annuities; and that a new receiver may be appointed to get in all the arrears of rent due from the several tenants of the premises. Dated this — day of — 1790.

Your's,

To Mr. *Barker*,  
clerk in court for  
the defendant *C. D.*

CALEB ATKINSON,  
solicitor for the said *A. B.*  
the plaintiff above-named,

*Plaintiff's motion to discharge order for three weeks further time for defendant to answer.*

**T**HE plaintiffs intend, &c. that the order made in this cause the — day of — for the defendant — to have three weeks further time to put in his answer to plaintiff's bill may be discharged for irregularity. Dated, &c.

This motion must be made on the order being obtained contrary to the rule of the court, and must be supported by shewing office copies of the former orders he obtained, or of the petitions, if under false allegations.

*Motion for a commitment for breach of the writ of execution.*

**T**HE defendant intends, &c. that Mr. — his late solicitor may stand committed to the prison of the Fleet for breach of a writ of execution of an order dated, &c. — and of a report made in this cause by Master — dated — the — day of — by not paying to the said defendant the sum of — *l.* and by not delivering to the said defendant all deeds, papers, and writings in his the said — custody or power relating to — (take the words of the order). Dated, &c.

*Plaintiff's motion for defendant by his clerk in court to name an attorney to whom the issue directed by the decree is to be delivered.*

**T**HE plaintiff intends, &c. that the defendant may in four days name to the plaintiff's clerk in court an attorney to whom the issue directed by the decree is to be delivered. — Dated, &c.

*Plaintiffs' motion to amend original bill and bill of revivor by striking out co-plaintiffs and making them defendants.*

THE plaintiffs intend, &c. that they may be at liberty to amend their original bill and bill of revivor by striking out *A. B.* and *C. D.* from being plaintiffs, and making them defendants, without costs as to the other defendants amending the defendants' copies of the bills.

*Defendants' notice of motion for a separate report of debts.*

THE defendant intends, &c. that Mr. — to whom this cause stands referred, may make a separate report of the debts of — as are proved before him and directed to be paid by the decree made in this cause. Dated, &c.

*Plaintiff's notice of motion to discharge order to enlarge publication.*

THE court, &c. that the order obtained by the defendant dated the — day of — instant, for enlarging publication to the — day of — may be discharged, and that publication may forthwith pass. Dated, &c.

*Defendants' motion to discharge a ne exeat regnum.*

THE court, &c. that the order made in this cause the — day of — for issuing a writ of *ne exeat regnum* against him until answer or further order, and marking the same for — l. may be discharged. Dated, &c.

*N. B.* This *ne exeat regnum* was discharged accordingly on defendants' giving a letter of attorney to plaintiffs to recover and receive the money due on the bond in question and injunction on defendants' shewing cause dissolved.

*Plaintiff's motion for a commission de bene esse after appearance.*

THE court, &c. that he may be at liberty to sue out a commission for the examination of — as a witness for him in this cause *de bene esse*, and that the defendants' clerk in court may join and strike commissioners' names with the plaintiffs' clerk in court in four days after notice hereof, and may be at liberty to execute the same on ten days notice to the defendants, or in default thereof that the plaintiff may be at liberty to sue out such commission directed to his own commissioners. Dated, &c.

*N. B.* The above motion was granted upon an affidavit that the witness was about to sail on a voyage in a few days, but the usual time was granted for defendants to join and strike, &c. and fourteen days notice was ordered to be given to defendants (as usual) for executing the commission.

*Notice of motion to invest a sum of money in the 3 l. per cent. annuities, and to appoint a receiver for the arrears of rent.*

**T**HE court, &c. that the sum of — l. cash in the Bank, in the name of the Accountant General in trust in this cause, may be laid out in Bank *three per cent. cons. annuities* in his name, subject to the further order of the court. And that — the late receiver of the rents and profits of the estates in question in this cause, may pay into the Bank, in the name of the said Accountant General in trust in this cause, the sum of — l. being the balance in his hands at the foot of his last account, and that the same when so paid in may be laid out in the like annuities in the name of the said Accountant General, and that a new receiver may be appointed to get in the arrears of rent from the several tenants of the premises. Dated, &c.

*Defendants' motion that a sum may be paid into the Bank and laid out in the purchase of three per cent. annuities, and that the Master may make a separate report of the debts and legacies.*

**T**HE court, &c. that the receiver may forthwith pay into the Bank the sum of — l. the balance in his hands, and that the same, when paid in, may be laid out in the purchase of Bank *3 l. per cent. consol. annuities*, in the name and with the privity of the Accountant General of this honourable court; and that the Master Mr. — to whom this cause stands referred, may make a separate report of the debts of — the testator, which he owed at his death, and of the legacies given by his will dated the — day of — and codicil dated the — day of — in the decree mentioned. Dated, &c.

*Plaintiffs' motion that depositions taken against A. B. may be read against C. D. at the hearing of the cause, same being at issue.*

**T**HE court, &c. that the depositions of witnesses taken by the plaintiff in this cause against the defendant *A. B.* may be read at the hearing of this cause against the defendant *C. D.* the plaintiff having replied to his answer and the cause being at issue. Dated, &c.



*Defendants' motion for stay of proceedings in ejectment.*

THE court, &c. that all the proceedings in ejectment brought upon the demise of the defendant — for the recovery of the premises situate in — of which a receiver hath been directed to be appointed by this honourable court may be stayed. Dated, &c.

*Plaintiffs' motion for a receiver to pay balance into the Bank.*

THE court, &c. that — the receiver of the rents and profits of the estate at — in the county of — and late belonging to — in question in this cause do in a fortnight pay into the Bank with the privity of the Accountant General in trust in this cause the sum of the balance reported due from the said — by the Master's report made in this cause the — and that the same when so paid into the Bank may be laid out in the purchase of Bank 3 *per cent.* annuities, in the name and with the privity of the said Accountant General in trust in this cause, subject to the further order of this court. Dated, &c.

*Serjeant at Arms' motion that defendants' solicitor may pay his bill of fees and disbursements.*

**T**AKE notice that *R. J.* esq. the Serjeant at Arms attending the Great Seal of Great Britain, intends, &c. that *Mr. J. C.* one of the solicitors of this court, may forthwith be directed to pay the sum of — *l.* for his bill of fees and disbursements on taking the above-named defendant into his custody, pursuant to a warrant signed by the right honourable the Lord High Chancellor, bearing date the — day of — together with the costs of this application.

*T. M.* Deputy Serjeant at Arms.

*Notice of motion to withdraw replication and amend bill, &c.*

Between *N. P.* infant by *M. E.* his  
mother and next friend  
*T. P.* - - - - -

plaintiff,  
defendant.

THE court will be moved on *Thursday* next the — day of — instant, being the — general seal after — or so soon after as counsel can be heard, that the plaintiff may be at liberty to withdraw the replication and amend the bill by striking out said *M. E.* widow as his next friend, and making

making her a defendant, and by naming Mr. *H. L.* of, &c. gent. a relation of the plaintiff and his solicitor in this cause to be his next friend in the room of the said *M. E.* and by adding other parties and by making other amendments as the plaintiff shall be advised, on payment of 20 *s.* costs to the present defendants. Dated, &c.

### *Of Deeds and Writings.*

**I**F deeds or other writings are referred to by an answer, this court, on motion, will order the defendant to leave them with his clerk in court, for the inspection of the plaintiff, his solicitor, or agent.

An heir filed a bill for discovering deeds and writings touching lands claimed by him as heir; the defendant by his answer swore that he was a purchaser, upon which the heir demanded a sight of his deeds and writings, which was refused; the Lord Chancellor observing that the plaintiff might go into a court of law, this court compelling them only to those having an equitable title. *Berlace against Cooke*, 2 *Freem. Rep.* 24.

If the plaintiff in equity has a title at law, the defendant, though a purchaser for a valuable consideration, and without notice must discover writings; but if the plaintiff has only an equitable title, and the defendant is a purchaser without notice he is not bound to do it.

It is said that equity will oblige tenant for life to deliver up deeds to the heir on his confirming the estate for life; but not if there are any remainders. *Joy against Joy*, *M. S. Rep.*

Any remainder man may in equity compel the person having the custody of the deeds to bring them into court for the security of all parties. *Reeves against Reeves*. 2 *Mod. Ca. in Law and Equity*, 132.

Where a deed in the plaintiff's possession, mentioned in the plaintiff's bill, was necessary to the defendant's making his defence a full answer, the court ordered the plaintiff to give him a copy of it. *Pract. Reg.* 131.

The defendant's witness proves a deed, and refers to it in his deposition; the plaintiff cannot compel the defendant to produce the deed at the hearing, the reference thereto not making it part of the deposition. 3 *P. Wms.* 35.

*Quare.*—Whether the bare referring to a deed, without setting it forth *in hac verba*, will make it part of an answer. *Ibid.* 364.

A deed is proved in the cause, and referred to in the depositions; yet the court will not order that the other side shall have leave to inspect it before the hearing, for the defendant before hearing is not to see the strength of the cause, or any deed to pick holes in it. 2 *P. Wms.* 410.

The

The plaintiff claimed by virtue of a remainder in tail, expectant on tenant in tail's dying without issue, and was the heir male of the family. The defendants were sisters and heirs general of the tenant in tail, and by their answer shewed that their brother, the tenant in tail, suffered a recovery, declaring the use to himself in fee, and refer to the deeds in their custody; the court ordered, before the hearing, the defendants to leave with their clerk in court the deeds making the tenant to the *præcipe*, and leading the uses of the recovery. 3 *P. Wms.* 363.

A. by answer confessed he had in a passion burnt his marriage articles; but it being proved that he had produced them after the time he said they were burnt, he was committed; and though he made oath he had them not, and could not produce them; yet the court would not discharge him, till he consented to admit the articles to be as in the bill. 2 *Vern.* 561.

Defendant not obliged to discover his title deeds; for you cannot come by a fishing bill in this court, and pray a discovery of the deeds and writings of defendant's title. If indeed there is any charge in the bill, general or special, that defendant has in his power deeds and writings of plaintiff's title, an answer must be given thereto. 2 *Vez.* 445.

If a bill states that plaintiff has brought an ejectment, and cannot proceed, because a deed, under which he claims title, is in defendant's possession, the court will compel a discovery and production; and upon motion will direct it to be produced at the trial, if the defendant by his answer admits to have the deed in his possession. *Vesey, jun.* 459. *Renison v. Ashley.*

### Of References.

A REFERENCE is an order of the court, whereby divers matters, as exceptions, contempts, irregularities, matters of account, &c. are referred to a Master to examine, and make a report to the court, to the end that the court may make an order absolute, and determine such matters; and sometimes Masters are empowered by the order of reference to determine the matters therein mentioned, as to tax costs, and exceptions to answers; but reports of the insufficiency of answers may be excepted to for the determination and opinion of the court. *Pract. Reg.* 305.

The reference is commonly to one of the Masters sitting in the court when the matter is moved; but it may upon motion, and cause shewn, be transferred to another. *Pract. Reg.* 305.

No reference shall be made of the insufficiency of an answer, without alledging the special causes in the exceptions; and a re-

ference of the state of the case is but rarely granted, except by consent of parties, and the special order of the court, where the court orders the master to state such a matter of fact specially to the court.

No reference upon a demurrer, or question, touching the jurisdiction of this court shall be made to a Master; but such demurrer, &c. shall be heard and determined by the court; so also where the cause is gone so far as to examination of witnesses, no reference is to be made to any Master of the court, or to any commissioners to hear and end the matter, except it be in special cases of parties near in blood, or of extreme poverty, or by consent of parties; but a cause may, by consent be referred to arbitrators, and then arbitration will be in nature of a report (which arbitration must be confirmed by the court like a report); and such arbitration may be also excepted to, and those exceptions determined by the court. *Toth.* 47. *Ibid.* 47, 48. *Prac. Reg.* 306.

Upon hearing causes, all matters of account, and other matters, (except in cases of very great weight, which are determined by the court,) are generally referred to a master, with some directions how to proceed therein, and in making his report: the like course of reference is to be taken for the examination of court rolls touching any customs; but the copies shall not be referred to any one Master, but to two at least. *Toth.* 48.

Upon application to the court, by consent of parties, accounts may be examined into before hearing; but the common method now is, not to examine into a matter of account till after hearing; and if after hearing there be a reference to a master for the stating an account, or such like matter, and he shall find any particular points or circumstances necessary and material to ground his report upon, which are not fully proved, nor could properly be examined to before the hearing of the cause, he shall direct the parties to draw interrogatories to such points or circumstances only, and examine thereupon in court by the examiners, if the witnesses be or reside within ten miles of *London*; but if further off, and the parties desire it, he may direct a commission to the country, which is to be made one by the six clerks, and publication shall pass according to the course of the court in such case. *Ord. Chanc.* 156.

When the decree, or order of reference has been entered, a copy of the title and ordering part should be left with the Master, with a copy of the proceedings you go upon; as a charge, &c. upon which, at the request of the party, his clerk in court, or solicitor, warrants are issued appointing a time for the parties concerned to attend the master; this warrant is served on the adverse party's clerk in court by shewing the



the same, and delivering to him a copy thereof; if he does not attend, the master will grant a second warrant, appointing a further day; and if he then persists in a non-attendance, a third warrant issues, which is commonly called a peremptory warrant; if he obeys not the third warrant, the master upon an affidavit of service of the three warrants upon the adverse clerk in court, or on his clerk or agent, at his seat in the Six Clerks office, will proceed and make his report *ex parte*, on that side that attends and desires it.

And generally where a matter of account is referred, before you form any charge, you take out a warrant to produce all books, papers, &c. which is usually ordered by the decree: and in proceedings before a master upon accounts, or taxation of costs, vouchers or proofs are generally expected for every thing that has not a kind of moral certainty, or violent presumption, or appears not of itself as a necessary concomitant or consequence of some other thing already proved or certain; therefore it is advisable to preserve all papers and writings whatsoever relating to the cause, which if not admitted by the other side, must be proved, before the master can allow them in evidence. 1 *Px.*

*Alm.* 39.

And if either party by his counsel, clerk, or solicitor, admits a matter of fact, the master ought to make an entry thereof in his minute book, which the party admitting in his presence subscribes; and this is conclusive to such party, and the adverse party shall not be put to any proof of that matter. *Ord. Chanc.* 254.

In matters of account where sums are forty shillings or under, then the party making an affidavit in writing before the master (if the party lives in town, or if in the country before a master extraordinary) that such sums have actually been paid, the same will be allowed by the master on the party's own oath; but if such sums are above forty shillings, the party must examine witnesses before a master, or by commission to prove those sums paid, unless the adverse party will admit such sums to have been paid.

*Note*, Regularly no person is at liberty to object to or defend the proceedings before the master, upon taking of any accounts, or taxation of costs, but such of the parties as shall actually pay for an office copy of such accounts or bill of costs from the master.

*Bridgeman* Lord Keeper, and *Grimstone* Master of the Rolls, declared it as a *rule*, and *course of the court*, on a reference to a master, to state an account upon a *mortgage*, that all money paid as *surety* shall be reckoned as *principal* money from the time of payment, and interest to be allowed accordingly: And secondly, if lands in fee and for life be joined in mortgage, if the fee be not

not sufficient at the time, the life shall be valued only as it was at the time, six or seven years purchase, and not according to the enjoyment since, be it twenty years or more. 2 *Kable* 376. pl. 31.

Where a trust is confessed by the defendant's answer, there needs no further hearing of the cause; but a reference is presently to be made of the accounts, and so they are to go on to the hearing and stating of the accounts. *Prac. Reg.*

A master dying, the court ordered that the several matters referred to him should be transferred to another; and further ordered, that all books, papers, &c. that concerned the causes referred to the deceased, should be transferred to such living master, when the same should be demanded.

A father left a great personal estate to two infant children, and made his wife executrix; a bill was brought in the infants' name by a relation, *prochein amy*, to call the mother to an account; on affidavit of several other relations, that this suit in the infants' name was out of pique, and not for the infants' good, the court referred it to a master, who reporting the matter to be so, the suit was stayed. 3 *P. Will.* 140.

The defendant obtained an order to refer the bill for scandal and impertinence; and the master reported it scandalous and impertinent. Exceptions were taken to the master's report, and allowed; and on the 18th *May* last, an order was then obtained by the plaintiff, to have his costs of the reference taxed, and paid by the defendant; and being made without notice, motion was made on the 18th to discharge that order; when a precedent of *Freke v. Culpepper, coram Sir John Strange, 29th May, 1752*, being produced by the plaintiff's counsel, the Lord Chancellor refused to discharge the order. The defendant having since discovered several orders of the like kind, which were discharged, the defendants applied by petition, to discharge the order of the 18th *May*, and inserted the precedents in the petition.

Upon hearing the petition, the Lord Chancellor took a distinction between this case and the precedents; they were for irregularity, which happens every day; but this for an imputation upon the plaintiff, charging him falsely with having inserted scandal and impertinence in his bill; and if such reference were to be encouraged, every bill would be stuffed with impunity. Therefore as it is a reflection upon the party, and the costs are discretionary, he refused the petition. *Bromfield v. Chichester, Ambler's Rep.* 464.

Reference for irregularity in taking interrogatories and depositions, and the master reported them irregularly taken. Exceptions to the master's report, and allowed. An order was then obtained, by petition to the Master of the Rolls, to tax the costs of the reference; and upon application afterwards, discharged by Lord Hardwicke. *Ibid.* 464. 17th *July*, 1745.

The

The defendant procured a reference for irregularity in suing out process of contempt for want of an answer; and the master reported in his favour; but the report was set aside on exceptions taken thereto; and on the 8th *May*, 1755, the plaintiff obtained an order of the late Lord *Hardwicke*, for defendant to pay the costs of the reference; and the master in pursuance of such order, taxed the costs, and made a report thereon; but before the same were paid, *viz.* on the 6th *August*, 1755, the defendant preferred his petition to his lordship, stating as aforesaid, and that the defendant *Long* was advised that the said order of the 8th *April* was irregular: for that the master having reported in favour of him, the defendant, the plaintiff therefore was not entitled to costs, no more than a plaintiff in error at law is entitled to costs; and therefore the defendant *Long* prayed by his said petition, that the said order of the 8th of *April*, might be set aside for irregularity with costs, and that proceedings thereon might be stayed, till the hearing the petition.

His Lordship took the matter into consideration, and consulted with his secretary and registers thereon, and directed them to search for precedents; and upon the aforesaid precedent of *Knight v. Dekin* being produced to his lordship by the register, his lordship ordered an attendance upon the said petition, and that all proceedings under the said order of the 8th *April* should in the mean time be stayed. The petition was heard before his lordship on the 1st *November* 1755, when his lordship made an order for discharging his order of the 8th *April*, at the same time saying, that he did it not only on account of the said precedents of *Knight v. Dekin*, but from the reason of the case. *Sterens v. Long*, 1st *Nov.* 1755.

A reference for irregularity was directed to a master, at the defendant's request, and the master made his report in favour of the plaintiff; whereupon defendant excepted to the report, and Lord *Henley* chancellor allowed the same; and on 26th *July* 1759, the defendant served a notice of motion, that the plaintiff might pay him the costs of the motion to be taxed; which motion was on the 28th of the said *July* debated by counsel on both sides, and rejected. *Ibid.* 466. *Nugent v. Jones*, 26th *July* 1759.

A second reference to the master to enquire whether plaintiffs were natural children of the testator refused, there having been sufficient in the bill to raise the question under a former reference. *Grave v. Lord Salisbury*, 1 *Brown's Chanc. Rep.* 425.

The plaintiff exhibited her bill against the defendant, and the defendant answered the bill, and the plaintiff moved to refer the answer for scandal and impertinence; whereupon the master having been attended by counsel, and being about to make his report that the answer was scandalous, the defendant got an order



on petition to refer the bill for scandal; and upon the plaintiff's motion to set aside this order,

It was objected, that though it has been the constant practice not to refer a bill for impertinency after answer, in regard the defendant by submitting to answer had waived the impertinency, yet as to scandal, the court itself was concerned to keep its records clean, and without dirt or scandal appearing thereon, and therefore a bill for scandal might be referred, not only after answer, but after hearing, and even by a third person, not party to the suit, and especially in this case, where both the matters alleged for scandal are relative to the same thing, and the plaintiff purposed that both the scandals should be waived. After an order to refer an answer for insufficiency, though it cannot be referred for impertinence, yet it may for scandal, as was determined in the case of *Ellison v. Burgefs*, *Hil. Vac. 1729*, by Lord Chancellor *King*.

Lord Chancellor: If the course has been for so long a time to refer a bill for scandal after the defendant has answered, it is time now to alter it, as occasioning great delays; besides, in the reason of the thing it ought not to be, for when the defendant has submitted to answer the bill, why should he after that procure the bill to be altered, and by that means to be made a new bill?

And though his lordship seemed to be influenced a little by the objection, that both matters of scandal were relating to things of the same nature, and so properly to be set one against the other; yet he discharged the order for referring the bill for scandal, intimating, that it should be observed as a rule for the future not to refer a bill for scandal after the defendant had submitted to answer it; though it was said by Mr. *Talbot* that it was an argument, the defendant did not move to refer the bill for delay, when he first answered the bill, before he moved to refer it for scandal.

*Note*, This is an alteration of an old rule of the court. *Sed vid. contra Woodward v. Afley*, *Bunb. 304. 2 Vef. 631. Anon.* In which latter case it is said by Lord *Hardwicke*, that a bill may be referred for scandal at any time; for impertinence; not after answer or submitting to answer. *Sed vid. also 1 Brown 400.* where Lord *Thurlow* said there is no established rule of court within what time an answer may be referred for impertinence; and though Lord *Hardwicke* had compared it to exceptions, where not brought in two terms, yet he did not lay down a rule upon the subject.

It is usual to underwrite all your warrants, to shew for what they are taken out, and upon what to be attended, as that, "*The plaintiff has left his charge*," and after the first warrant, "*To proceed on the plaintiff's charge*," and the like; but the first  
warrant



warrant is seldom or never attended upon by the adverse party's solicitor or clerk in court, because they are in general not furnished with office copies of the proceedings left with the master.

And if the master cannot go through with the matter referred to him upon the second warrant, you may take out a third, fourth, &c. and as many as you please, till he hath.

*Note*, In taxing the costs arising to the plaintiff's and defendant's solicitors on this business, they are allowed for all office copies, and also 2 s. for each of the warrants, and 2 s. for copy and service of each warrant, and 6 s. 8 d. for each attendance on the master under a warrant.

If there is any delay in the master's office you may apply for orders for the master to proceed *de die in diem*. 3 *Bro. Ch. Rep.* 45.

If the object of the suit be for a distribution of a testator's estate and effects, the usual advertisement for creditors to come in and prove their debts before the master may be bespoke of the master's clerk, when a copy of the ordering part of the decree is left at the master's office, which advertisement must be inserted in the *London Gazette*, and in the newspapers, if required by the master. The second advertisement may be had about a month or six weeks after the insertion of the first in the *Gazette*.

*CLAIMS of creditors* are generally left by their solicitors in consequence of the above advertisements.

Where a bill has been filed for an account and a creditor comes in before the master, but afterwards brings an action, the court will enjoin on motion. 3 *Bro. Ch. Rep.* 163.

If the creditor had not come in before the master, a new bill must have been filed. *Ibid.*

If a bill is filed by creditors or trustees for payment of debts, the court will by injunction restrain a creditor from proceeding at law against an executor because the court having taken the fund into its own hands, will not permit the executor to be pursued at law. *Ibid.* 183.

Where a decree is made upon a bill brought by a creditor on behalf of himself and all other creditors of the same person, and another creditor comes in before the master to take the benefit of the decree and proves his debt, he cannot file a bill in case of delay by the creditor who filed the original bill; but he must apply to the court for liberty to conduct the cause. 3 *Atk.* 557.

Bond creditors of the ancestor obtain a decree for sale, against the heir; an injunction will go against other bond creditors proceeding at law; unless they obtain it before the decree. 1 *Ves.* 211.

This court aims at equality of satisfaction in administration of assets.

Devisee in trust for payment of debts mortgages the estate to one of the creditors, who shall not retain it for his former debt, but come in *pari passu*. *Ibid.* 215.

Husband on a second marriage contracts to pay money in trust for wife for life, and afterwards for the issue of that, and a son by the former wife: his creditors cannot come upon this against the son, as being a voluntary disposition as to him. *Ibid.* 216.

A creditor is to account for profits really received: and not only according to the extended value. *Ibid.* 250.

Lands devised subject to debts; defect of surrender of copyhold supplied, there not being any freehold. *1 Ves.* 215.

Devise of lands charged with payment of debts. If the devisee sell pending a suit by creditors for sale and payment of debts, such alienation is void. *Ambler's Rep.* 676.

Creditors have a right to call on the heir, or devisee, to execute the trust. *Ibid.*

Real estate where charged, affected by equitable as well as other debts. *Ibid.* 483.

Where an executor is also the trustee for payment of debts, the assets shall notwithstanding be equitable, and not legal, and all the creditors must be paid *pari passu*. *2 P. Wms.* 50.

The court will go as far as it can, to attain payment of debts.

A few creditors may sue for themselves and the rest; and the suit abates not by the death of one. *2 Ves.* 313.

In general on a demand against an executor, it is not necessary to bring the creditors before the court, but the executor only who is the proper person to defend, and will be supposed to do this duty. The usual direction is to take an account, &c. and all the creditors to come before the master to prove their debts; which if they do, and it is objected, that they are not creditors, for valuable consideration, that question may be entered into there, and come before the court upon *exceptions* to the report. *1 Ves.* 131.

If necessary to examine executors, touching their receipts and payments, *interrogatories* must be prepared for that purpose, which need not be signed by counsel; but the same must be left with the master to settle, and warrants must be taken out for that purpose.

The interrogatories being settled, the master's clerk ingrosses them, and the master's certificate of having allowed them should be filed at the Report office.

Warrants may be taken out to hasten the defendant to prepare and bring in his examination.

The master will indulge the defendant with a reasonable time for that purpose, or an order for a month's time may be procured, on application to the court, by motion, or by petition at the Rolls: but if after three warrants and after the time obtained is expired,

expired, you may move the court (upon an office copy of the master's certificate that the examination is not put in) "that the defendant may put in his examination within four days, or stand committed."

The order being served, if defendant doth not put in his examination within the time limited, you may move (on an office copy of the Master's certificate of defendant's default and on an affidavit of service of the former order) for a serjeant at arms who will take defendant into custody; where he must remain until he hath put in his examination and cleared his contempt.

Where parties go before the Master upon a reference, he must receive interrogatories from both, though one of them should not have gone into any proof in the former stage of the cause.  
3 Bro. Cha. Rep. 190.

THE EXAMINATION, being prepared, must be signed by counsel, engrossed on parchment with a 2 s. 6 d. stamp on each skin, and sworn before a master. The master's clerk makes a copy of the examination for plaintiff's solicitor.

This examination grounds all the proceedings by *charges and discharges*, in taking the accounts and ascertaining the facts, for the discovery of which, the interrogatories were framed.

If the examination should appear insufficient, you may apply to the court by motion, or to his Honour by petition, praying that the interrogatories and the examination may be referred to the master.

On three insufficient examinations, you may apply to the court by motion that defendant may stand committed.

Where a party is taken up for not putting in an examination, he may move to be discharged on clearing his contempts.

IN addition to the examination, any party may compel (by warrant before the master) *the production of all books and papers* where it is so directed by the decree.

The books and papers required must be left by defendant with an affidavit of the same, being all that are in his custody or power, or that he ever had; in default of which you may apply to the court (for the master's certificate) that defendant may within four days leave with the master the books and papers required, or in default that he may stand committed.

Further time for the production may be obtained, if necessary.

When the books and papers are brought in, an office copy of the affidavit, made on leaving them must be had, in order to see what is left and that the affidavit is sufficient.



THE CHARGE is taken from the schedule in defendant's examination. A copy of the charge must be left with the Master, and warrants taken out to proceed thereon.

On attending the warrants, the evidence in support of the charge is read from the examination.

When the charge has been allowed, if defendant doth not bring in his discharge immediately, a warrant may be taken out to compel him.

When the discharge is brought in, take a copy of it, and attend defendant's warrants thereon; when defendant must produce before the master vouchers for all payments above 40 s.; if the adverse party will not admit such sums to have been paid, If the sums are 40 s. or under, the same will be allowed by the master on the party's own oath.

N. B. The court will not order a balance upon charge and discharge in the Master's office, to be paid in, before the master has made his report. 3 Bro. Cha. Rep. 45.

If the master is directed to enquire of what estates a testator died seised or possessed, a *state of facts* must be prepared and left with the master: and if the same is disputed, proof in support thereof must be read from the pleadings in the cause, or from the proceedings before the Master if proof can be collected from them; if not, *interrogatories* must be exhibited for the examination of parties in the cause, or of witnesses.

THE Examination must be on *interrogatories*, which are not settled by the Master (as the interrogatories for the examination of a defendant) but they must be settled and signed by counsel. When prepared, they must be engrossed on parchment, with a 2 s. 6 d. stamp, and left with the Master's clerk, who will examine the witnesses and afterwards deliver copies of the examination to the solicitor.

If any witnesses reside in the country, they may be examined by a commission, which may be had, on the Master's certificate, that such commission is necessary. The commission is made out by the clerk in court without an order where the parties join in commission. If the adverse party declines joining in commission, an order must be obtained by motion, which order must be served on defendant's clerk in court.

The commission being returned, executed, the bearer thereof, if a commissioner named therein, may leave it with plaintiff's clerk in court, and no oath is required; but if brought by any other person, he must be sworn before a Master that he received it from a commissioner, and that it has not been opened or out



of his custody since. Give notice to your clerk in court of the commission being returned, that he may file it.

*Of Sales before the Master.*

**W**HERE Estates are directed to be sold before a Master, a particular must be prepared by plaintiff's solicitor.

The particular being allowed by the Master, the advertisements for the sale must be had; which may be drawn by plaintiff's solicitor, or the Master's clerk will draw them, and procure the Master's signature, to authorize an insertion in the *Gazette*. Attend the sale at the Master's chambers at the time appointed.

EACH PURCHASER procures a report of the *Lot* he has purchased, which being filed, he applies to the court that the purchase may be confirmed: the order is an order nisi. If no cause shewn after service of the order, apply to confirm the report absolute. The purchaser will then be entitled to a conveyance on payment of the purchase money, and may at any time apply to the Court for leave to pay in the purchase money, and to be let into possession of the estates.

After the drafts of the conveyance are drawn, they must be settled by the Master; and, when settled, his clerk will ingross the deeds, procure the report of allowance of, and deliver them to the solicitor. The report must be filed, and an office copy thereof must be procured.

After an order to the tenant in possession to deliver possession to a purchaser, service of a writ of execution of that order, attachment and injunction personally served, and affidavit of the facts and of disobedience, a writ of assistance shall issue. *Bro. Ch. Rep.*

One purchaser may be substituted for another upon motion with consent. *2 Bro. Ch. Rep. 391.*

It is no objection on the part of a purchaser of land, sold by a master, that more land is sold than is necessary for the purpose of testator's will. *Ibid. 248.*

When money is decreed to be laid out under a marriage settlement, in purchases; application must be made to the court upon each separate purchase. *1 Bro. Ch. Rep. 74.*

N. B. Estates charged with debts ordered to be sold, (if necessary) the heir at law being in the *East Indies* and the devisee insane. *2 Bro. Ch. Rep. 399.*

Where after a person is reported the best purchaser, lives dropt in, the court have directed the purchaser to make some compensation in respect to the estates being bettered; or otherwise to

go before a master again, and the estate to be put up for a new bidding, *Blount against Blount*, 3 *Atk.* 636. *Vide Dairy v. Barber*, 2 *Atk.* 489. *Ex parte Manning*, 2 *P. Wms.* 410.

The court will not compel a purchaser under a decree to accept a doubtful title, but he must be discharged from the purchase and have back his deposit. 2 *P. Wms.* 201.

One allowed the best purchaser under a decree is ordered to pay the purchase money; this not a debt due by a decree, but only by order of the court. 2 *P. Wms.* 620.

Where an estate is charged with debts generally, in case of a sale before suit, the purchaser is not bound to see to the application of the purchase; but if he buys after bill filed, he is. *Ibid.* 677.

If any person wishes to advance on the sum offered by the highest bidder for the *Lot* on which the order *nisi* has been obtained to confirm the report of the sale, he must apply to the court within the eight days allowed to *open the biddings*. This is done by motion stating the advance offered. Notice of the motion must be given to the reported purchaser and to the parties in the cause. This application is considered as cause shewn against the order *nisi*.

If the bidding is opened, it will be on a deposit of the whole sum; and the former purchaser will be intitled to all his costs and the difference of interest of his money. 4 *Bro. Cha. Rep.* 172.

Biddings may be opened upon a proper offer, even a second time, if the Master's report has not been confirmed. 3 *Bro. Cha. Rep.* 475.

If parties apply to open biddings before the report is confirmed, it is of course to open them on payment of costs and making a deposit: but after confirmation a special ground upon evidence is required. 2 *Ves. Jun.* 52.

It is a general rule not to open biddings after confirmation of the report, unless under particular circumstances.

Fraud is one exception to the general rule not to open biddings after confirmation of the report.

Biddings opened after confirmation of the report on circumstances, as where the owner of the estate, who joined in the motion, was in prison at the time of the confirmation, and a fourth of the original price was offered in advance: but a deposit of the whole advance was required. 2 *Ves. Jun.* 51.

Increase of price alone will not do; but, when large, is a strong auxiliary circumstance. *Ibid.*

Biddings were opened upon the terms of paying the costs of the purchaser. The purchaser applied for a direction to include in the costs the expence of a journey from *Yorkshire* to see the estate. The *Chancellor* refused to give any particular directions; saying,

saying, the Master would under the general directions make the allowance according to the practice; and he was informed, there never had been an instance of a particular direction for a specific expence. *Ibid.* 286.

Motion to open a bidding of 5020*l.* upon the ground of mistake as to the time of sale, and an overbidding of 150*l.* Lord Chancellor refused it, saying he would not open it for a less overbidding than 500*l.* and that the circumstance, that the bidder was too late, is no ground at all; for the court gives its assistance to open biddings for the benefit of the suitor and the estate, not of the purchaser. 1 *Ves. Jun.* 453.

It much imports the suitors of this court, that sales by auction before the Master should be put upon such a footing, that bidders may know with some degree of certainty, when they are confirmed in their purchases. But as this Court is intrusted with the interests of vendors, they must take care of those interests.

N. B. If decree directs that the personal estate shall be first applied to the payment of debts and legacies; and if there is a deficiency, that such part of the real estate as shall be necessary, shall be sold to make it up; an account of the personal estate should be taken previous to the sale of the real estate.

### *Of Maintenance for Infants.*

**I**F the decree directs an inquiry respecting the maintenance of infants, and what will be a proper allowance, and it being necessary to obtain such allowance before the general report is made; an order must be obtained after notice of motion for that purpose, that the Master may make a *separate* report of the personal estate, and what maintenance will be proper to allow the infants. The order being obtained, and copies served on the adverse parties, leave the order with the Master, with a state of facts, and proposal for maintenance. The facts must be verified by affidavit, if not verified by any other proof in the cause. When the proposal and affidavit are left, take out warrants and proceed thereon; and when the report is signed, file it, and present a petition praying that the report may be confirmed, and that the maintenance may be allowed and leave a copy of the petition with the chancellor's secretary, who will get the petition answered: serve copies on the clerks in court for the adverse parties, and be prepared at the hearing with an affidavit of service.

Maintenance allowed upon petition, for an infant though no cause in court. 3 *Bro. Cha. Rep.* 88.

The court will order costs on reference for maintenance without suit. *Ambler.* 146.

A special



A special direction to the Master, in settling an allowance for maintenance to an eldest son, to consider the birth of a posthumous child, refused. 1 *Bro. Cho. Rep.* 179.

If the parent be of ability to maintain his children, he shall not have an allowance for that purpose out of the interest of a fortune coming *aliunde*, although it was ordered by the will to be applied to maintenance. *Ibid.* 387.

When the parent is reported not of ability, the sum allowed shall be only from the time of the report, not of the decree. *Ibid.*

Exceptions will not lie to a Master's report of maintenance : and a title being set up against the infant must be established elsewhere. *Ibid.* 577.

Lord *Clive*, provided by his will, a maintenance for his second son, out of the real estate, he afterwards gave large legacies to his younger children, with maintenances out of the interest, the second son entitled to both maintenances. *Ibid.* 147.

Mother married to a second husband, not obliged to maintain the children by the first, but shall have an allowance from the interest of their fortunes. *Ibid.* 268.

Where the father applies for a maintenance for a child out of its separate fortune, the court refers it to the Master to inquire whether the father is of ability to maintain the child, but there is no such reference when the mother applies. *Ibid.*

No allowance can be made to a parent, for the maintenance of his child for the time past, it being the duty of a father to maintain his child. The Master, if he sees the pressure of the parent's circumstances, may consider it in the rate of the allowance, but cannot make an allowance for the time past. 2 *Bro. Ch. Rep.* 231.

Although, where fortunes are given to children (living the father) with provisions for maintenance that shall not be raised, but accumulate while the father is of ability to maintain the children ; yet, where the woman's fortune (on a second marriage) was settled to the use of herself for life, remainder to the children of the marriage, making a provision for maintenance out of the interest of the fund, the court ordered an allowance to be made. 4 *Bro. Ch. Rep.* 225.

By statute of 1st. *Anne*, c. 30. intitled an act to oblige the *Jews* to maintain and provide for their protestant children, it is enacted, " That if any *Jewish* parent, in order to compel his " protestant child to change his or her religion, shall *refuse* to allow " such protestant child a fitting maintenance suitable to the degree or ability of the parent, and to the age and education " of such child, upon complaint to the *Lord Chancellor*, or " *Lord Keeper*; &c. it shall be lawful for the *Lord Chancellor*; &c. " to



“ to make such order for the maintenance of such protestant child, as he or they shall think fit.”

In the court's allowance of a maintenance out of a *Jew's* estate, to his daughter turned protestant, not material, though the daughter be above forty years of age, or married, or though the *Jew* be dead. 1 *P. Wms.* 525.

*Notice of Motion for a separate Report, &c.*

Take notice, That this honourable court, &c. that *I. W.* Esquire, one of the Masters of this honourable court, to whom this cause stands referred, may be at liberty to make a separate report of the personal estate of *A. B.* deceased, the testator named in the pleadings in this cause, and of his debts, funeral expences, and legacies; and also what is proper to be allowed for the maintenance and education of the infant plaintiff, pursuant to the decree made in this cause. Dated, &c.

*Receiver.*

**A** RECEIVER may be granted on motion, upon a proper case being laid before the court, notwithstanding the reservation of all matters under the decree, till after the Master has made his report, for this is a mere provisional order. 3 *Atk.* 690.

The court will not appoint a receiver of an estate, when the matter in dispute depends on a mere legal title, unless strong grounds of title are shewn, and the rents are in danger of being lost. *Ambler*, 311.

The court will not appoint a receiver of an infant's estate, where there is no bill filed, for the court has not a jurisdiction to appoint a receiver, unless a cause be depending. 1 *Atk.* 489. 578. 2 *Atk.* 3:6. The jurisdiction the court exercises as to idiots and lunatics, is a particular one, and therefore not like the case of an infant.

Receiver of a testator's estate continued receiver of an infant's estate on giving security by his own recognizance only.

Motion for a receiver granted before answer. *Ibid.* 158.

Exceptions to a report of a receiver over-ruled, as the report ought to stand till the party approved is impeached as an improper person. *Ibid.* 253.

When a receiver is to be appointed, a proposal of some person for the office, and of two sureties must be carried in before the Master, as the course of the court requires a security by the receiver and two sureties, the proposal being allowed, and an affidavit of the sureties' sufficiency being left, the receiver and his  
sure

sureties then enter into a recognizance for his duly accounting for what he shall receive. His duty is to receive the rents, and to grant leases of the estates with the approbation of the master.

Any person inclined to take a lease must lay a proposal before the Master; and if the same is allowed, his solicitor must prepare a draft of the lease, to be settled by the Master.

The security given by a receiver does not relate to the faithful management; but the receiver gives security duly to account for the produce of the estate in his hands, he cannot set and let, or make expenditures upon the estate without an application to the court. 1 *Ves. Jun.* 139.

A manager of an estate in the *West Indies* never gives security faithfully to manage the estate, he may in his discretion make expenditures, it being his duty to take care of the estate; and a certain degree of discretion must be given, and there must be some discretion left, as to what part of the produce is to be left in the island to be applied there, for by insisting on his remitting such part, as could be applied there, the estate would be ruined. The court will grant an order, that the manager shall account for the produce of the estate, of what he receives, and what he applies there; and for consigning, so far as the management of the estate requires it, to the particular persons named in the order. 1 *Ves. Jun.* 139. There are many instances of security given by *consignees*.

A receiver is to let the estate to the best advantage; but he cannot raise the rents upon slight grounds, nor turn out tenants, nor let even for one year without application to the Master. 1 *Ves. Jun.* 165.

A receiver has a power to distrain for rent, and need not apply for a particular order for that purpose, unless there be a doubt who had a legal right to the rent. 3 *Atk.* 750.

The receiver must distrain in his own name, if the tenants have attorned to him (which it is necessary they should be compelled to do) and not in the name of the person having the legal estate, because there is no privity. 1 *Ves. Jun.* 161.

A receiver will be continued until deeds of sale under the decree are executed, for the purpose of collecting arrears of rent. *Ridgeway's Rep. temp. Hardwicke C.* 295.

If a receiver be appointed upon the application of a mortgagee or other incumbrancer, and he afterwards embezzles or otherwise wastes the rents and profits, the Lord Chancellor intimated an opinion that the loss must fall on the mortgagor. 3 *Bro. Ch. Rep.* 365.

The appointing a receiver is not in all cases a turning the party out of possession; as, where a receiver is appointed of an infant's estate; in such case the receiver's possession is the possession of the infant; but on the appointing a receiver in an ad-

versary suit, as where the plaintiff in ejectment has recovered a verdict; here the receiver's possession seems to be the possession of him that has the right to it. 3 P. Wms. 379.

As the receiver is the hand of the court, he will be put in possession in a summary way, by ordering the tenants to attorn to him, and granting him a writ of assistance, without first awarding an injunction, which is, in other cases the usual process. *Ibid.*

The course of the court is, that if a receiver is appointed, and the owner of the estate is in possession of part of the premises, application should be made to the court, that the owner should deliver possession to the receiver; who cannot distrain on the owner in possession, as he is not tenant to him. 2 Vez. 401.

Receiver must pay in his money *annually*; and must pay nothing out without an order, he shall pay interest for money kept in his hands even a quarter of a year after it ought to have been paid in; inquiry directed as to that, though the receiver had passed his accounts, and all parties had declared themselves satisfied. 1 Ves. Jun. 85.

*Note,* The receiver, or any of the parties in the cause may apply by motion, to have the balance in the receivers' hands paid into court.

A receiver, during the infancy of the plaintiff, who had no guardian, was directed, to place out the surplus of the rents, with the approbation of the Master, when the same should amount to a competent sum, on government or other securities, having never placed it out at interest, according to the decree; the court, on motion, directed that he should pay interest at 4*l.* per cent. from the time of the decree, till the infant came of age. 3 Atk. 273.

It is no excuse for the receiver, that the Master did not give any directions about it, for it was his duty to remind the master to lay out the surplus rent when it amounted to a competent sum. *Ibid.*

That buildings and farms are in a ruinous condition, and tenants often breaking, will not justify a receiver keeping the balance in his hands, for it is not to be supposed he could exhaust the whole received from the rents of the estate. *Ibid.*

The receiver's settling the accounts and delivering the vouchers to the plaintiff when he came of age, and his admitting the balance; and receiving it without objection, had no weight, as the transaction was two days only after he came of age. *Ibid.*

The master was directed to inquire what sums of money the receiver ought, or might reasonably have laid out at interest for the benefit of the estate, and that for such sums the receiver should be charged at the rate aforesaid. *Ibid.*

A receiver



A receiver shall not make good a loss which was not owing to any default of his, for where the rents he has in his hands are large, it is a necessary precaution to remit them by bills to *London*, rather than in *specie*. 3 *Atk.* 480.

Where a receiver pays money to a tradesman, and takes bills for the sum, if he was in credit at the time, though he fails soon after, it shall not affect the receiver. *Ibid.*

But if the money had been lost by his wilful default, and placing it in what he knew at the time to be an improper hand, the court will oblige a receiver to answer the loss out of his own pocket. *Ibid.*

Motion by a remote remainder-man, and tenants to restrain a receiver from ejecting tenants refused with costs, their interest not being sufficient: but somebody interested in the estate for life, or the term ought to have applied. 1 *Ves. Jun.* 165.

If an executor is an improper person to have the assets, or is insolvent, the court will appoint a receiver.

An injunction was granted to restrain a wife, who was executrix, from getting in the assets of her testator, and a receiver appointed, husband being in the *West Indies*, and not amenable to the process of this court.

*Note*, If the executrix had wasted the assets, or had refused to pay, the plaintiff had no remedy, because the husband must be joined in the action. 2 *Atk.* 213.

A receiver appointed to collect in assets, and to bring actions in the name of an executrix, must give security to indemnify the executrix on account of such actions. *Ibid.*

In the case of collusion between the personal representative, and the person having the fund, a receiver would be appointed.

In a cause for an account of partnership transactions, both parties being dead, a receiver will be appointed: *secus* if one be surviving. 2 *Bro. Ch. Rep.* 272.

A receiver granted for one partner against another where the defendant was in contempt and did not appear. 4 *Bro. Ch. Rep.* 441.

On a motion for a receiver tenant in common in possession, ordered to give security for payment of the proportion of rents to his co-tenants; otherwise the order to go for a receiver. 4 *Bro. Ch. Rep.* 414.

When a receiver is discharged, he must apply by petition to have his recognizance vacated; which petition, when answered, must be served upon the clerks in court, for all the parties in the cause.

It is not a motion of course, that when a receiver is appointed and has given security, he should put the parties to the expence of a change; and in order to intitle himself to be discharged from the receivership, he must have an affidavit to shew some reasonable



reasonable cause for such discharge, otherwise the motion will be rejected.

Sureties for a receiver not discharged at their own request, therefore the court will not regard their application unless for benefit of the parties in the cause. 2 *Vez.* 401.

*Proposal for a Receiver.*

In Chancery,

Between *A. B.* and others Plaintiffs, and  
*C. D.* and others Defendants.

**T**HE plaintiffs propose *F. G.* of *Ware*, in the county of *Herts*, gent. to be the receiver of the estates in the pleading in this cause named.

And the said *F. G.* proposes *H. I.* of *Ware* aforesaid, gent. and *K. L.* of the same place, gent. to be his sureties.

*Affidavit of the Sureties.*

In Chancery,

Between *A. B.* and others Plaintiffs, and  
*C. D.* and others Defendants.

*H. I.* of *Ware*, in the county of *Herts*, gent. and *K. L.* of the same place, gent. severally make oath and say, and first this deponent *H. I.* for himself, saith, that he is worth the sum of 3000 *l.* (double the amount of the yearly rent of the estates) after all his debts are paid. And this deponent *K. L.* for himself saith, that he is worth the sum of 3000 *l.* after all his debts are paid.

Sworn, &c.

*Affidavit of a Receiver on passing his Accounts.*

In Chancery,

Between *A. B.* and others Plaintiffs, and  
*C. D.* and others Defendants.

*F. G.* of *Ware*, in the county of *Herts*, gent. the receiver of the rents and profits of the estates in question in this cause, maketh oath that the foregoing account set forth in the 10th and 11th pages of this book \* doth contain according to the best of this deponent's knowledge and belief, a full and true account of all the rents and profits of the said estate for one year, ending at *Lady-day* 1790, being from the foot of his former account and of the former rents returned by his said former account to be in arrear and unreceived at the time of making up the same,

\* The book kept at the Master's chambers, in which this Affidavit is written.

which

which have been received by this deponent, or any other person by his order, or for his use, except such as may have been received since the time of making up his account for the said year, ending at *Lady-day*, 1790, which are or will be brought into his subsequent account. And this deponent further saith, that the several sums of money mentioned in the said foregoing account (in the 12th and 13th pages of this book) to have been paid or allowed, were actually paid or allowed by this deponent for, or on account of the said estates, and for the several purposes in the 12th and 13th pages mentioned, according to the best of his knowledge and belief. And this deponent further saith, that he doth not know of any error or omission in the said foregoing accounts to the prejudice of any of the parties in the said cause.

*General Order.*

*December 15th, 1792.*

THE Lords Commissioners for the custody of the Great Seal of *Great Britain*, and the right honourable the Master of the Rolls, having taken into their consideration the necessity of enforcing the order of this court, that the receivers of the rents and profits of estates under the care of this court, do duly and annually pass their accounts, and pay what they receive according to the terms of the orders, under which they are appointed, to prevent such accounts from running in arrear, do think fit, and do hereby order, that the Masters of this court do, upon the second seal after *Trinity-term* in every year, certify to the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal for the time being, the state of the several receivers' accounts in their respective offices; and do farther direct, that this order be forthwith entered with the Register, and copies set up in all offices belonging to the court of Chancery,

*J. Eyre, C. S.*  
*W. H. Ashurst, C. S.*  
*J. Wilson, C. S.*  
*R. P. Arden, M. R.*

*A Report of passing a Receiver's Account.*Between *A. B.* plaintiff.*C. D.* defendant.*June 23, 1789.*

**I**N pursuance of the order made upon the hearing of this cause the twenty-sixth day of *November 1774*, and of a subsequent order of the ninth day of *May 1775*, I have been attended by *E. F.* receiver of the rents and profits of those parts of the estates in question in this cause, which lie in *T.* in the county of *W.* and by the solicitors for the parties, and the said receiver having brought before me an account of the rents and profits of the said estate, and of his payments and allowances thereout for taxes and repairs for one year ending at *Lady-day 1788*; which account containing likewise a rental of the said estate, is contained in one sheet of paper marked with the letter (*H*), which now remains with me ready to be produced as this court shall direct. I have in the presence of the said receiver, as also in the presence of the solicitors for the plaintiff and defendant, proceeded to take the said account. And I find, that the said receiver hath received, by and out of the said rents and profits for that year, the several sums of money contained in the fourth column of the said account, intituled (money received), amounting together to the sum of *465 l. 11 s. 2 d.* and that he hath allowed to several tenants of the said estate for taxes and repairs, the several sums contained in the second and third columns of the said account, intituled (allowances) and (land-tax), amounting together to the sum of *85 l. 5 s. 2 d.* of which I have made him an allowance; and which being added to the said sum of *465 l. 11 s. 2 d.* received as aforesaid, makes the sum of *550 l. 16 s. 4 d.* which is the amount of the rental of the said estate, for the said year, as appears by the first column of the said account intituled (yearly rents); and I do not find, that there are any arrears of rent of the said estate standing out unreceived, save those mentioned in the first schedule to my report, dated 12th of *June 1784*. All which arrears are of a long standing and deemed desperate. And I find, that over and above the allowances therein before mentioned to have been made to the said receiver, he hath paid, and is to be allowed for rent and quit-rent issuing and payable out of the said estate for his salary, as receiver, and charges of passing his accounts, the several sums of money mentioned and set forth in the schedule to this my report annexed, amounting together to the sum of *42 l. 7 s. 8 d.* which being deducted out of the said sum of *465 l. 11 s. 2 d.* reduces the same to the sum of *423 l. 3 s. 6 d.* And I find, by

my report made in this cause the twenty-fourth day of *June* 1786, that upon the foot of the said receiver's account to *Lady-day* 1785, therein stated and allowed, there remained in his hands a clear balance of 347*l.* 10*s.* 1*d.* which being added to the said sum of 423*l.* 3*s.* 6*d.* makes the sum of 770*l.* 13*s.* 7*d.* which is the clear balance remaining in the said receiver's hands upon the foot of his account to and at *Lady-day* 1786. All which I humbly certify and submit to this honourable court.

T. W.

*The Schedule mentioned in, and referred unto by the foregoing Report, containing an Account of Allowances craved and made by E. F. the Receiver for several Payments by him made (over and besides the Allowances to Tenants) and otherwise.*

	£.	s.	d.
Paid a year's quit rent to N. O. Esq; for part of the said premises due at <i>Lady-day</i> 1786,			

Paid a year's quit-rent to P. Q. for other part of the said premises <i>l.—s.—d.</i> after deducting _____ taxes due at <i>Lady-day</i> 1786,			
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Allowed the receiver for one year's salary due <i>Lady-day</i> 1785,			
--	--	--	--

Allowed ditto for charges of passing this account,			
--	--	--	--

T. W.

*Note*; Upon having an order to appoint a receiver, you take out a warrant, underwriting that such a one, mentioning where he lives, is to be approved of by the Master to be receiver, and that such and such a one, naming two persons, mentioning where they live, are to be his security; for all receivers must, as before mentioned, enter into a recognizance with two securities before the Master to account regularly.

A receiver appointed by the court, is an officer of the court, and need not be served with a writ of execution of a decretal order, but only with a copy of the order, and if he disobeys it, he shall be committed. *Mosely*, 40.

[For cases relating to a receiver, see 2 *Abr. Eq.* p. 691.]



*Of Report and Exceptions thereto.*

**A** REPORT is a Master's certificate to the court how the facts or matters, referred to him by the court to examine, are, or do appear, or of somewhat which it is his duty to inform the court of. *Pract. Reg.* 319.

By ancient order the Masters of the court are required, That, upon a particular matter being referred to them, they do not certify the state of the cause, as if they would make briefs of the evidence on both sides: but that they ordinarily do it with some opinion upon the matter; and by a latter order, they are not upon the importunity of any counsel whatsoever, or of clients to return special certificates to the court, unless required by the court so to do, or that their own judgment in respect of difficulty leads them to it: and by the same order, certificates and reports are to be drawn as succinctly as may be, (reserving the matter clearly for the judgment of the court, and without recital of the several points of the order of reference, or the arguments of counsel before them, unless that, in cases of doubt, they may concisely represent to the court the reasons upon which their doubt is founded. *Toth. 48. Ord. Chan.* 144.

The report must not ordinarily exceed the order of reference; but when the court requires to be satisfied from a master of any matter alledged to be confessed or set forth in the defendant's answer, he is by the standing order of the court to take consideration of the whole answer; and to certify, not only whether the matter be confessed or set forth, but also any other matter avoiding that confession, or balancing the same, so that the court may receive true information. *Ibid.* 145.

Where a time was prefixed the master to make his report, and he made it after that time, it was disallowed; and generally, if the court by an order prefix a time, and the master makes his report after that time, it is irregular. *Chan. Caf.* 179.

If a report upon a reference for an insufficient answer be not procured and filed with the register within a month after the date of such reference, the reference becomes absolutely void, without motion and special order obtained thereupon. *Frac. Reg.* 321.

In proceedings before the Master, when he hath fully heard both parties, he prepares a draft of his report, and at the request of either party issues a warrant, that the parties or some of them do again attend him; who have liberty to peruse such report, and take copies thereof; and after that, either party may again attend the master, and take out a four-day warrant, (which is a warrant returnable in four days after date,) and underwrite such warrant, *At which time the Master shall sign his report;* which the Master accordingly will sign, unless either party do at

that time bring in *objections* in writing to the draft of such report, and take out a warrant, giving notice that he has *brought in objections to the draft of such report*; and then the adverse party takes a copy of such objections, from the Master; and either party may take out one or more warrants to be heard thereupon, and the master allows or disallows the objection as he sees cause, and settles his report. Though after the master hath made his report, either party may take *exceptions* to it, which must be argued in open court. But note; the party cannot regularly file exceptions to any report after the hearing, unless he first bring in objections to the draft of the report, and be heard before the Master thereupon; otherwise such party gives the court unnecessary trouble, and creates unnecessary expence to the other party in bringing exceptions to be determined by the court, which probably might have been determined before the Master, and allowed by him, on arguing before him the objections to the draft of his report, and very great inconveniences may arise, if this rule is not adhered to.

And these *exceptions* must be signed by counsel, and be filed with the register, at which time you pay him five pounds in order to answer the costs in case it is for delay or other frivolous matter, or your exceptions are over-ruled, and then you petition my Lord Chancellor for a day to set them down, of which notice must be given to the other side, by serving a copy of the order on the clerk in court, and before the day of hearing, you must make his Lordship a copy of the report and exceptions, which you leave with my Lord's gentleman with five shillings.

And upon arguing the *exceptions*, no evidence will be admitted in support thereof, but what was laid before the Master upon the objections. *Primrose and Bromley, Mich. Vac. 1739.*

Upon argument in court whether papers were given in evidence before the Master, Lord Chancellor *Camden* intimated that he would make an order for the Master to mark all papers allowed of in evidence before him. *Mich. 1766.*

Where exceptant prevails in any of the exceptions, he is entitled to the deposit. *4 Bro. Cha. Rep. 1.*

Where a defective account is carried in before the Master, you should object to such defects, and that the same be made perfect before him, for the court will not afterwards make an order thereupon.

When the court by special order shall admit exceptions to any report, whereby money is reported due; after the time such exceptions should have been regularly filed, no proceedings on such report shall be stayed without giving security to pay the money, or bringing it into court, unless the court shall provide otherwise by particular order. *Ord. Chan. 203.*

Reports and certificates are to be filed with the Register in four days after signing; and he is to mark on the back the day of

of their receipt and filing. And all proceedings grounded on reports not so filed shall be void; and the Register's certificate of such neglect shall be good cause to discharge such proceedings and for costs according to the discretion of the court. But this rule of filing reports and certificates in four days is almost disused, and they are frequently filed afterwards. *Ibid.* 236.

On a report to ground a decree after it is signed by the Master, no order can be had to *confirm* it, till it be filed with the Register, then an order *nisi* is obtained to confirm the report, unless the adverse party, being personally served with such order, shall in eight days after such service shew cause to the contrary; and then the other party has eight days from the service to except to it: But if the report be made before hearing, it needs no confirmation, but process may be taken out to enforce the performance, &c. without farther motion; unless the adverse party do in due time obtain some order of court to controul or suspend the same. And such order of controul must be obtained immediately after such report is filed either in Term, or during the General Seals after; but though the eight days be past, yet if it be but lately, the court will, upon motion, order exceptions to be received, and the party to procure a report in a short time. But no report after hearing is valid, unless it be confirmed by order of the court; which is confirmed by order *unless cause* as before; And if no cause is shewn against such report in eight days after personal service, then upon affidavit of such service, and taking the entering Register's certificate on such order (which certificate must be signed by any one of the registers) that no cause is shewn against that order, then upon such affidavit and certificate on the said order, counsel moves of course to make such order absolute; and then the said report is absolutely confirmed.

But where you cannot serve the order *nisi* personally, or where the defendants are numerous and live in different counties, at a great distance from one another; on affidavit thereof, the court will make service on the clerk in court good. For an affidavit where the defendants live in different counties, and a petition that service on the clerks in court may be good, *vide* under the title of *Affidavits* and *Petitions*.

If plaintiff moves to confirm report *nisi*, and defendant shews for cause, that he has taken exceptions; plaintiff too may except to report, notwithstanding his motion. *Moseley* 305. pl. 167.

Upon a dismissal with costs, to be taxed by a Master, there needs no confirmation of his report, but a *subpœna* for costs, after the report filed, may be forthwith taken out; and if an answer be reported insufficient, one *subpœna* for the costs, and another *subpœna* to make a better answer returnable *immediate*, may be issued immediately; that for the costs must be served on the party personally; and that to make a better answer may be served on the party's clerk in court.



A report being filed, the adverse party may give an authority to his counsel to consent that such report be absolutely confirmed : And such counsel consenting, the court will so order it : but without such consent the court will only order it to be confirmed, unless cause as before. And if, after a report is confirmed *nisi* a party obtains leave for the Master to *review* it (which is very rarely granted), he must pay such costs as the court shall think fit.

The court will but very seldom, and that in special cases, stir a report after it is confirmed, because the parties had sufficient time to except to it ; much less will the court alter it without extraordinary and sufficient reasons, if it was confirmed by consent of parties.

*Note*, There is no occasion to serve a report.

Where an answer is reported sufficient, the plaintiff is to pay the same costs to the defendant he would have been entitled to from the defendant, had the answer been reported by the Master insufficient. *Vide Gilbert's Hist. and Pract. of Chancery*, p. 103.

If the Master reports the defendant's answer insufficient in one single exception, the defendant must either submit to answer, or except to the Master's report. *Ibid.* p. 104.

A bill was brought against the defendant *Gwyn* for a foreclosure, and against the defendant *Wight* for a discovery of his incumbrance on the mortgaged premises, and for delivery of a moiety of the estate in possession of the defendant *Wight* to the plaintiff.

The defendant *Wight* insisted on a prior incumbrance upon *Gwyn's* estate, and claimed to be tenant by the curtesy of the whole estate, and that his son had the fee of it under an old settlement. At the hearing of the cause the Lord Chancellor decreed that *Gwyn* should redeem or stand foreclosed, and that the consideration of the matters in question between the plaintiff and the defendant *Wight*, should be reserved till after the Master had made his report in relation to *Gwyn*.

The Master reported the defendant *Gwyn* had not redeemed the plaintiff by the time limited, and that report was confirmed.

The plaintiff instead of setting down the cause upon the equity reserved between him and the defendant *Wight*, applies now by *motion* for the delivery of the possession of the moiety in mortgage to him.

Lord Chancellor : The court, where they have at the hearing of a cause, reserved any of the matters in question between the parties, till after the Master had made his report, will not determine those matters in a summary way upon motion, but the plaintiff should have set it down in the ordinary course upon the equity reserved.

If



If indeed the plaintiff had moved *for a receiver*, and had laid a proper case before the court for that purpose, I would have granted the motion, notwithstanding the reservation under the decree; because this would have been a mere provisional order, and would not have affected the question between the parties.

3 *Atk.* 689.

A cause came before the court upon an appeal from a former decree, and likewise upon exceptions to a Master's report. There was a bill brought for 100 *l.* legacy against the defendant, charged by a will upon a real estate, the reversion of which belonged to the defendant; the answer denied the whole equity of the bill, but was reported insufficient. The Master also reported the several processes regular in this cause; exceptions were taken to this part of the report; and it was insisted for the defendant that there was a material irregularity in the present case, because the process had never been duly served. *Davis v. Davis*,

2 *Atk.* 21.

In support of this fact the counsel for the defendant offered to read affidavits *subsequent to the Master's report* upon a suggestion that the plaintiff's were made but the evening before the Master's report, and consequently they had not time to answer them; but the Lord Chancellor would not allow them to be read, for he said this would be determining the matter *ex post facto*.

Where the party who takes an exception to the Master's report did not lay a material piece of evidence, which he had then in his power, before the Master, to which the error in the Master's report is owing, the court will *not* direct the Master to review his report upon any other terms than the exceptant's giving up his deposit. 2 *Atk.* 408.

For it turns upon the same reasoning as in the case of appeals from the Rolls, where, upon a petition, the person appealing may be let into new evidence, which was not read at the Rolls; but then, as it was entirely his fault that it was not read there, it will not be allowed him upon any other terms than giving up his deposit.

In decrees to account before a Master, formerly there was a clause in them, that if there should be *any special matter* in taking the account, the Master might state it specially; but decrees are now drawn up without this clause, and a Master may state special matter notwithstanding. *Ibid.* 621, 622.

Before report the court refused to order balance of charges allowed against defendant upon account, and the whole alledged in his discharge to be paid into court upon certificate by the Master and defendant's examination before him: and also refused a motion to take the certificate off the file. 1 *Ves. jun.* 69.

No certificate by a Master as by Accountant General, but there must be a report, in order to take notice of any thing in the Master's office.

A bill referred to a Master for impertinence, he reports it pertinent, the defendant excepts *generally*, without specifying the parts of the bill which are impertinent; the objection was overruled as being irregular; for though the exception was taken in so general a manner, the party may go upon it without pointing out particular passages. 2 *Atk.* 182.

A Master by his report certified, that the defendant had submitted to deliver part of the plate in question to the plaintiff, to which the defendant excepted, insisting that he had made no such submission. Resolved, that by means of the report, the proof lay on the defendant, whose affidavit at least was necessary to falsify what had been certified; for, though there is no reason that the Master's report should be arbitrary and conclusive upon any one, yet it shall be presumed *prima facie* to be true, and turn it on the other side to shew the contrary. *Per Lord Parker*, the seal before *Easter Term 1720. Allen v. Pendlebury*, 3 *P. Will.* 142, Note (B).

It having been referred to the Master to consider of a proper maintenance for the *infant Nicholls* out of the real and personal estate of his father (who died intestate), *A. B.* came before the Master, and objected to the maintenance allowed by the Master's report, insisting that the infant was illegitimate, and that he was heir at law and one of the next of kin of the infant's father; but he had no evidence before the Master in support of these facts; the Master, therefore, made his report of maintenance, and *A. B.* now excepted to this report upon the same grounds, which were now supported by affidavits; but

Lord Chancellor said, that exceptions would not lie to a report of maintenance, and moreover that it was impossible for him to take notice in this form of *A. B.*'s title, which must be first established elsewhere. 1 *Brown's Chan. Rep.* 577. *ex parte Nicholls*.

It is sufficient that a Master's report be filed before any proceedings are had thereon, though not within four days after made, notwithstanding such order made by the Lords Commissioners, the 4th of *W. & M.* Vide 2 *P. Will. Rep.* 517.

A report made by a Master is as a judgment of the court.

It is not usual to confirm reports of receivers' accounts. 2 *P. Will.* 661.

You cannot bring on the cause for the further directions of the court, or move, on a Master's report, till it is confirmed. *Mosely*, 71.

Report for maintenance of an infant when made by the Master, should be immediately filed, and a petition must be presented

sented by the solicitor to the Chancellor or Master of the Rolls, in order to confirm the same. A copy of the petition must be served *three days* before the day of hearing; the solicitor must prepare a brief of the petition, &c. and fee counsel. He may in his petition either state the whole of the proceedings to the court, or only instructions, and so go on with the order of reference, and pray to have the report confirmed, and such allowance as mentioned in the report paid. At the hearing you must read to the court the office copy or original report, when the court confirms such report.

Note; *This report must be filed before you can draw up your order made on the petition to confirm the same. The order, when drawn up, must be passed and entered at the register as a common order, and a copy or copies served on the party or parties.*

*The Form of a Report of the Arrrears of an Annuity.*

Between *A. B.* ——— plaintiff,  
*C. D.* executor of *E. F.* et al<sup>s</sup> defendants.

*March 3, 1790.*

**I**N pursuance of the order made on the hearing of this cause, bearing date the tenth day of *December* last, I have been attended by the solicitor for the plaintiff, and the defendant *C. D.* (no person attending for the other defendants, although duly summoned, as by oath made before me appeared), and I have, in the presence of the parties so attending me, proceeded to take an account of what was in arrear for the annuity, or yearly rent charge, of twenty pounds a year in question in this cause, during the time the said *E. F.* the testator, was in possession of the estate mentioned in the pleadings of this cause; and I do find, that in the month of *October* 1764, *G. H.* brother of *J. K.* who was the eldest son of *L. M.* nephew of *N. O.* in the pleadings of this cause named, died without issue male; and that on the death of the said *G. H.* the said annuity of twenty pounds a year vested in the said plaintiff *A. B.* by the will and cedil of the said *N. O.* And I do find, that on the death of the said *G. H.* the said testator *E. F.* was then in the full and absolute possession of the trust estate of the said *N. O.* charged therewith, and so continued till the month of *April* 1768. And I further find, that on the first day of *February* 1764, there became due to the said plaintiff *A. B.* for half a year of the said annuity, the sum of 10*l.* and that during the time the said testator continued in the possession of the said estate as aforesaid, the said plaintiff *A. B.* became intitled to three years more of the said annuity, viz. for  
 one



one year due the first of *February* 1765, the sum of 20 *l.* for another year due the first of *February* 1766, the sum of 20 *l.* for another year due the first of *February* 1767, the sum of 20 *l.* which, together with the said sum of 10 *l.* make together the sum of 70 *l.* : but it being directed by the said order, that I should deduct the taxes out of the said annuity according to the rate the lands, whereout the same doth issue, have paid to the land-tax ; I find, that the said lands have been rated but as a moiety of the land-tax as allowed by the acts of parliament for these years : I have therefore, in the schedule to this my report annexed, stated the rules of the land-tax as allowed by parliament, for the said years, and what is to be deducted out of the said annuity according as the said lands were yearly rated, and the same in the whole amounts to 6 *l.* which I have deducted from the said sum of 70 *l.* whereby the same is reduced to the sum of 64 *l.* for which sum I have, according to the directions of the said order, computed interest from the filing of the plaintiff's bill which was on the fourth of *November* 1789, to the twenty-third day of *March* instant, being one year four months and nineteen days, after the rate of 4 *l.* per cent. per annum, and the same amounts to the sum of 3 *l.* 12 *s.* 0  $\frac{1}{4}$  *d.* which being added to the said sum of 64 *l.* make together the said sum 67 *l.* 12 *s.* 0  $\frac{1}{4}$  *d.* and which said sum of 67 *l.* 12 *s.* 0  $\frac{1}{4}$  *d.* I do appoint the said defendant *C. D.* to pay unto the plaintiff *A. B.* on the said twenty-third day of *March* instant, at the Chapel of the Rolls in *Chancery-lane*, between the hours of ten and twelve of the clock in the forenoon of the same day. All which I humbly certify and submit to the judgment of this honourable court,

*T. W.*



*The Schedule to which my Report refers.*

	£.	s.	d.
First, out of the half year's annuity due the first of February 1764, which that year was 2 s. in the pound, to be deducted one moiety of the land-tax, which amounts to	-	-	0 10 0

Also out of one year's annuity due the first day of February 1765, which that year was 3 s. in the pound, to be deducted one moiety of the land-tax, which amounts to	-	-	1 10 0
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Also out of one year's annuity due the first of February 1766, which that year was 4 s. in the pound, to be deducted one moiety of the land-tax, which amounts to	-	-	2 0 0
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Also out of one year's annuity due the first of February 1767, which that year was 4 s. in the pound, to be deducted one moiety of the land-tax, which amounts to	-	-	2 0 0
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£ 6 0 0

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T. W.

*Note,* For a report before hearing, the Master is paid fifteen shillings; for a report after hearing, five and twenty shillings.

*Further Directions.*

In order to set down the cause for *further directions*, after the report is confirmed, a petition must presented either to the Lord Chancellor, or to the Master of the Rolls. With the petition should be left a copy of the decree and report. When the petition is answered, get the order drawn up and entered, and serve it on the clerks in court for the adverse parties. Get the cause entered in the proper cause book, and make an affidavit of the service of the order, and procure an office copy to read on the hearing, in case the adverse party should not appear.

Be prepared on the hearing with the Accountant General's certificate of the state of the money and funds in the cause. Make a copy of the title and ordering part of the order made on further directions for the Master. If the costs are directed to be paid

paid out of the funds in the cause, the payment may be immediately made. If they are to be paid by a sale of part of the stock or fund, the order and report must be left with the register, and his certificate to the Accountant General must be procured and left at the Accountant General's office with the order and report, and the Accountant General will sell the stock, and pay the costs.

Petition to set down cause for further directions, or such farther order, as the court should think fit, dismissed, though the parties could not proceed; an enquiry before the Master being rendered useless by the event of a verdict upon issue directed, and farther directions having been reserved till after trial and report. 1 *Ves. jun.* 153.

Upon further directions the court may add to the decree, and may therefore give interest, though the question of interest was not reserved. *Ambler* 584. 2 *Ves. jun.* 164.

### *Issue at Law.*

**D**RAW *issue*, and if necessary to have the same settled by a special pleader, leave a copy of the decree with the draft of issue for his perusal; when the issue is drawn make a copy thereof for defendant's attorney, and attend him to settle the same. Then give notice of trial and proceed to enter the issue, and make up the record as in other causes. After trial, present a petition for leave to set the cause down to be heard on the *equity reserved*, leave with the petition a copy of the decree, and of the record and *posse* thereon, for the Lord Chancellor.

After issue made up, it is proper to move this court for a special jury, if necessary, and the court will grant the same. 2 *P. Wms.* 68.

If plaintiff gives notice of trial, and does not countermand it in time, upon motion this court will give costs, and not put defendant to move the court of law, where the issue is to be tried.

It is not usual to enter up judgment, where a verdict has been given on an issue directed.

Bill filed to have certain deeds, and a will confirming those deeds, set aside for fraud, and undue influence; as the will confirmed the deeds, and the whole appeared to be one transaction, when the issue was directed to try the validity of the will, another issue was also directed to try the validity of the deeds. Both the deeds and the will were tried together in one record, but upon separate issues. 2 *Ves. jun.* 287. 292.

Application for new trial must be to this court.

After

After verdict on issue directed new trial on account of having farther evidence to produce refused; there being no fraud or surprize, but the evidence having been kept back by the party applying; though the court much dissatisfied with the verdict.

1 *Ves. jun.* 133.

It is the common rule of this court, not to grant a new trial unless upon circumstances of fraud or surprize. *Ibid.*

In the above cause, counsel moved for the costs of the issue, upon which, the Lord Chancellor said, that whether costs are to be paid, or any thing else is to be done, ought to come on upon farther directions, not by motion.

New trial granted upon new evidence, and to satisfy the conscience of the court, though the judge certified in favour of the verdict: but it would be otherwise at law. 2 *Ves.* 552.

New trial refused after two verdicts against deeds and a will for fraud. 2 *Ves. jun.* 287.

If on issue directed, the judge certifies, that the weight of evidence was against the verdict, the court will order a new trial, in order to have justice done: for the verdict must be such as will satisfy the conscience of this court. *Ambler* 210.

New trial ordered for misdirection of the judge. *Ibid.* 321.

This court has frequently granted new trials, merely because the inheritance was to be bound by it. 2 *Vern.* 285.

So much regard is not paid to personal property.

The costs of a feigned issue do not follow the verdict, as a matter of course; but the finding of the jury is returned back to this court, and the costs are in the discretion of the court.

Where the material issue is found for the party who sets down the cause for further directions, he must have his costs at law.

1 *Bro. Cha. Rep.* 420.

Issues directed to try a *modus*, though established by two verdicts, the plaintiff intitled to his costs at law only, and not in equity; for the suit in this court is merely for the security of the plaintiff, and to prevent any further mischief of his right to an exemption from the payment of tithes in specie. 1 *Atk.* 611.

On an issue from chancery original answer not sent down to the trial, whether between same parties or not, till after refusal of the office copy as evidence. 1 *Ves. jun.* 152.

By one of the stamp acts a particular stamp is required for close copies to be given in evidence.

There are two sorts of copies of proceedings: a *close copy* which might be given in evidence in another court, and *office copies* which are equivalent to the record itself when made use of in the same court in the same cause; the office copy is fixed to a certain number of words in a sheet, in order to ascertain the officer's fees; but copies to be given in evidence might be written as close as the writer pleased; the stamp acts mean to prevent any frauds

in



in the office-copies by the parties compounding with the officers for their fees, and then writing a more than usual number of words in them, but did not mean to fix close copies to any number of words in a sheet. See 2 Burr. 1181. & 2 *Espinasse's Nisi Prius*, 778.

Upon an issue at law, whether a deed to lead the uses of a fine levied by a man and his wife was duly executed; the deed having been enrolled for safe custody, and afterwards lost, a copy of the inrollment was allowed at the trial, to be given in evidence. 2 Vern. 471. 591.

The court cannot set aside a will without directing an issue.

### *Award.*

BY 9 & 10 W. 3. c. 15. in matters in which there is no remedy but by personal action or suit in equity, parties may agree that their submission to an award be made a rule of any of his Majesty's courts of record, and insert such agreement in their submission; which agreement so inserted, shall, on affidavit read and filed in court, be made of record, and a rule of court shall be, that the parties be concluded by such award; and if they refuse to obey it, process of contempt to a rule of court shall issue, and not be stayed by any other court of law or equity, unless it appear on oath, that the arbitrators misbehaved themselves, and that such award was procured by corruption or undue means: but an award by corruption or undue means shall be set aside by any court of law or equity, so as complaint be made in the court where the rule was made for such submission, before the last day of the next term after the award published.

By virtue of the above statute, a submission to an award shall be made a rule of equity, as well as of the courts of law. *Com. Dig. tit. Award.*

The practice of submission to arbitration is very beneficial to the parties; and therefore the court ought not to be severe upon arbitrators, but ought to make every intendment to substantiate their award. 2 Ves. jun. 17.

The only grounds for setting aside awards are, *first*, that the arbitrators have awarded what was out of their power; *secondly*, corruption, or that they have proceeded contrary to the principles of natural justice, though there is no corruption, as if without reason they will not hear a witness; *thirdly*, that they have proceeded upon a mere mistake, which they themselves admit. *Ibid.*

If parties litigating consent to take arbitrators instead of a Master, they may: but if they agree to refer the whole matter

to



to judges of their own choice, the court cannot correct the error of their judgment upon facts. *Ibid.*

When any thing is submitted to arbitration, the arbitrators cannot award contrary to law, because that is beyond their power; for the parties intend to submit to them only the legal consequences of their transactions and engagements. *Ibid.*

There is a great difference between a reference to an arbitrator, and a reference to a Master; an arbitrator is constituted judge of the facts without appeal; the Master is only to prepare for the court, who is really the judge, and the Master only the minister; whereas in the other case the arbitrator is the judge, and not the court; the court has divested itself of all judgment. This is the case of all arbitrations in courts of law; and there is no distinction as to that point between arbitrations in courts of equity and of law. *Ibid.* 24.

In order to induce the court to set aside an award, there must be something more than the mere simple ground of erroneous judgment in the arbitrator; as corruption in the arbitrator, or gross mistake, either apparent upon the face of the award, or to be made out by evidence: but in case of mistake it must be made out to the satisfaction of the arbitrator; and the party must convince him, that his judgment was influenced by that mistake, and that if it had not happened, he should have made a different award. But this relates only to a general reference to arbitration of all matters in dispute between the parties. But upon a reference to an arbitrator to enquire into *facts*, &c. the reference is to him in the character of a Master; and the court is to draw the conclusion; and if the arbitrator has taken upon himself to do so, the court will see, that he has drawn a right conclusion. In *Milligan v. Dick*, March 1792, the Lord Chancellor said, that upon a reference of this kind exceptions may with leave of the court be filed to an award; and if the exceptions are allowed, the court will refer it to a Master, but will not refer it back to the arbitrator without consent. But the exceptions in *Milligan v. Dick* upon a petition of rehearing were overruled, the order being that the award should be final. 4 Bro. Ch. Rep. 536.

Matter of exception to an award must be confined to what arises upon the face of it compared with the proceedings in the cause, and cannot be introduced by affidavit; any thing *dehors* charging misconduct, &c. must come upon motion and affidavit to set it aside; and there cannot be a partial enquiry. 2 Ves. jun. 28.

The Lord Chancellor was of opinion, that where a matter in a cause is referred, the party cannot except to the award, but it must come on upon further directions. 1 Bro. Ch. Rep. 398.

Accounts

Accounts referred to the Master : afterwards an order of reference was made to arbitrators to take an account of all dealings and transactions in like manner, as if the same were referred to the Master, and that the parties should be concluded and bound by the award, and should observe it, and further directions were reserved : this reference is not in nature of a reference to the Master ; therefore the parties are bound by a general award of a balance due without particulars stated, the decision being final because upon matter of fact and no corruption or misconduct imputed ; and the court will not require particulars merely as a ground for costs. 2 *Ves.* jun. 23.

Award on *general* reference not to be impeached by exceptions, but by cross motions to set aside and confirm it. 1 *Ves.* jun. 369.

This court will relieve where the award appears to be unreasonable, or where it appears the arbitrators mistook the fact or the law. 2 *Vern.* 705.

An award not to be impeached for allowing compound interest ; for it may be allowed in case of a contract for it either express or to be inferred from the nature of the dealings between the parties ; as if it is according to the course of their trade ; therefore it is a conclusion of fact, on which the judgment of the arbitrators is final : but this doctrine as to interest has no relation to mortgages. 2 *Ves.* jun. 15.

When there is a non-performance of an award, the proper motion is, that the party may stand committed ; not for an attachment ; but the notice of motion must be personally served. 3 *Bro. Ch. Rep.* 358.

A cause being ended by arbitration, without proceeding on the bill, order will be given to dismiss the bill.

### *Partition.*

**U**PON a bill filed praying a *partition*, a commission issues to various persons nominated by the parties, who proceed without a jury.

When the commission is returned, the cause must be set down for further directions, and the final decree will direct the necessary conveyance to be prepared and executed by the parties.

Decree for a partition is matter of right. *Ambler* 236.

No costs allowed on bills of partition, and each party must be at equal expence, though their interest be ever so unequal. *Ibid.*

There is no instance of not succeeding in a bill for a partition ; but where there is not proof of title in the plaintiff. *Ibid.*

In the case of *Cartwright v. Lord Bath*, the court gave leave, and time for the plaintiff to make out his title. *Ibid.*

Demurrer

Demurrer to bill for partition of tithes over-ruled. 1 *Ves.*

494.

A power to *sell or exchange* extends to making partition. 4 *Bro. Ch. Rep.* 278.

On a partition in Chancery, every part of the estate need not be divided; but sufficient if each tenant in common, &c. have an equal share of the whole. 1 *P. Will.* 447.

If there is but one house, or mill, or advowson to be divided, then this intire thing must be divided.

Lands are conveyed in trust, as to one moiety to *A.* an infant in tail, as to the other to *B.* who is of age in tail; *A.* the infant brings a bill for a partition; whereupon the court decreed a partition, but that the trustees should not convey till the infant was of age, that he might join in confirming the partition. 2 *P. Will.* 518.

### *Dower.*

**T**HIS court will assist a widow, entitled to dower, with a discovery of the lands or title deeds, or remove impediments to her rendering her legal title available at law.

It is now settled, that a widow labours under so many disadvantages at law, from the embarrassments of trust terms, &c. that she is fully entitled to every assistance that a court of equity can give her, not only in paving the way for her to establish her right at law, but also by giving complete relief when the right is ascertained. *Treatise of Equity, with notes by Fonblanque*, 19.

The court will, in favour of a widow, enforce a discovery against a purchaser for valuable consideration without notice. 3 *Bro. Ch. Rep.* 264.

If a widow die before her right is established to dower, equity will, in favour of her personal representatives, decree an account of the rents and profits of the lands. *Treatise of Equity, with notes by Fonblanque*, 20.

Widow put to election to take under the will of her husband or dower notwithstanding great disproportion. Receipt of a legacy and annuity under the will for three years did not prevent her right of election, being presumed not to have acted with full knowledge, which would bind her. 1 *Ves. jun.* 335.

A man after his marriage brought several incumbrances upon his estate, of which his wife was dowable, and the account was before the Master in relation to the several incumbrances, and upon motion for the dowress to be paid her dower, Lord Chancellor said, the defendant is a dowress and ought to have relief without staying for the account taken as to the incumbrances, for she is entitled to her dower out of the rents and profits prior



to any body else; and as there is a direction by the decree among other things to see what is due for dower out of the rents and profits of the estate: therefore let the Master make a separate report of what is due for dower without entangling her for the sake of the general account. *Ridgeway's Rep. temp. Hardwicke, 253.*

Dowress trustee for her son coming into possession of the estate, whereof she was dowable, was in receipt of the profits.—On taking account being entitled to allowance for her dower, shall not be drove to her writ of dower for the future profits. *1 Ves. 262.*

A settlement made upon a female infant, by which an estate was settled on the husband's mother for life, remainder to the husband for life, remainder to the wife for life, remainder over, in bar of dower, not binding upon the wife, *in regard the mother might* (as she did) *survive the husband*: the wife may therefore *elect* to take the provision, or her dower and free bench. *4 Bro. Ch. Rep. 500.*

Demurrer to a bill for dower over-ruled, though it stated no impediment to suing at law. The Lord Chancellor said, that where the title to dower is admitted, and nothing to be done but to assign it, there being nothing to try at law, it would be useless to send it thither. *Ibid. 294.*

Testator charged his estate with an annuity for his wife, she shall notwithstanding have her dower. *3 Bro. Ch. Rep. 347.*

Plea of purchase for a real consideration without notice, not good to a bill for dower, that plea being only a bar to an equitable, not to a legal claim, as dower is. *3 Bro. Ch. Rep. 264.*

Leasehold estate settled in bar of dower, is not a bar of thirds. *Ibid. 362.*

A jointure made by a freeman of *London* on his wife in bar of dower, will not extend to bar her of her customary part. *Ibid. 530.*

Costs not allowed in dower.

The court will not give interest on the arrears of an annuity secured by bond in lieu of dower. *Ibid. 489.*

A trust term for years shall not, in equity, hinder dower. *1 P. Will. 127. See 2 P. Will. 707, 708, 709, 714.*

### *Proving Will of Lands.*

**I**F a will is made, and an estate of inheritance is devised from the heir at law, the devisee commonly exhibits a bill against him, in order to perpetuate testimony of it, by proving the due execution thereof; this is done by examining witnesses *in perpetuam*



*petuam rei memoriam*; the will (if the witnesses are examined in London) must be left at the examiner's office, for inspection by the witnesses, and for their being examined thereto; which being done, and publication passed, the cause is at an end.

The heir at law, if he examines no witnesses, may give notice of motion for plaintiff to pay him his costs: but if he examines witnesses he shall not have costs, but bear his own. See 2 *P. Will.* 285.

Though the heir at law cross-examine plaintiff's witnesses, he shall have costs.

If plaintiff claims to have the will established, it is necessary to make the heir at law a party; not, if he only claims a title under the will. 2 *Ves. jun.* 431.

Motion, That will proved in *Doctors Commons* might be delivered out by the officer to the plaintiff to be proved *per testes*, upon giving security; order granted; and referred to the Master to take security. *Ambler* 343.

It is not necessary to give notice of the motion.

*Note*, The rule of proving a will in Chancery is this, *viz.* if the subscribing witnesses are all living, they must all be examined; if all three are dead, the court will give credit to the hand-writing, and therefore proof that they are all dead, and also proof of their hand-writing, is sufficient to establish the will. If any of the witnesses are beyond sea, and not amenable to the court, yet he or they must be examined by commission, and it must be proved that you could not examine him or them; and proving them abroad, without also proving an attempt to examine them, will not do.

### *Foreclosure.*

**I**F mortgagor is apprehensive that the estate is worth more than the money reported due for principal, interest and costs on the mortgage, and wants time to raise money to pay off the mortgage, the court, upon application, and an affidavit of the value, will usually enlarge the time to redeem for six months, and refer it back to the Master to tax the subsequent costs; and carry on the subsequent account: and upon further application will enlarge the time for three months; which application should regularly be made before the time appointed for payment is expired.

But if a mortgagor cannot make more of his estate, but will let it go, mortgagee must, after the expiration of the six months, apply to the court (which is a motion of course) for an absolute order to redeem, which must be upon an affidavit of the mortgagee's attending at the time and place mentioned in the report.

None but the mortgagee, or the person appointed by the report, can receive the money reported due, unless they be appointed by letter of attorney, and then the person appointed, if the money is not paid, makes an affidavit thereof, and then you proceed as before.

When the personalty is deficient, and the same person is heir and executor, the mortgagee may pray a sale in the first instance. *Bro. Ch. Rep. 155.*

*A Report of Principal, Interest, and Costs upon a Mortgage.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

February 9, 1790.

**I**N pursuance of the order made on the hearing of this cause, bearing date the tenth day of *October* 1789, I have been attended by the solicitors for all parties; and in their presence, I have considered of the matters thereby to me referred. And I have proceeded to take an account of what is due to the plaintiff for principal and interest on his mortgage on the premises in question in this cause. And I find, that there is due to the said plaintiff, on his mortgage, bearing date the eighth day of *October* 1766, the principal sum of 600 *l.* And I have computed interest for the said principal sum of 600 *l.* after the rate of 5 *l. per cent. per annum*, from the said 8th day of *October* 1766, to the third day of *September* 1789, being six months after the date of this report; and the same being for seven years nine months and forty-seven days, amounts to the sum of 236 *l.* 7 *s.* 3 *d.* whereout being deducted the sum of 90 *l.* which I find the said plaintiff hath received on account of interest on his said mortgage, there remains the sum of 146 *l.* 7 *s.* 3 *d.* which being added to the said sum of 600 *l.* make together the sum of 746 *l.* 7 *s.* 3 *d.* due to the said plaintiff for principal and interest on his said mortgage on the same third day of *September* next. And I have considered of the said plaintiff's bill of costs, amounting to the sum of 86 *l.* 5 *s.* 6 *d.* which I have moderated and taxed at the sum of 97 *l.* 19 *s.* 6 *d.* which being added to the said sum of 746 *l.* 7 *s.* 3 *d.* make in the whole the sum of 844 *l.* 6 *s.* 9 *d.* due to the said plaintiff for principal, interest, and costs on his said mortgage, on the said third day of *September* next; and which said sum of 844 *l.* 6 *s.* 9 *d.* I do appoint the defendant to pay to the said plaintiff on the said 3d day of *September* next, between the hours of ten and twelve of the clock in the forenoon of the same day, at the Chapel of the Rolls in *Chancery-lane*. All which I humbly certify to this honourable court.

*T. W.*

*The Form of a Letter of Attorney to receive Money reported due at the Time appointed by a Master's Report.*

**T**O all to whom these presents shall come, *A. B.* of, &c. sendeth greeting. Whereas *T. W.* Esq. one of the Masters of the high court of Chancery, by his report bearing date on or about the third day of *March* last past, and made in a certain cause depending in the said court, wherein the said *A. B.* is plaintiff, and *C. D.* is defendant, certified, that in pursuance of an order made on the hearing of the said cause, bearing date the 19th day of *February* 1786, he had been attended by the solicitors for all parties, and in their presence had considered of the matters thereby to him referred, and had proceeded to take an account of what was due to the plaintiff for principal and interest on his mortgage on the premises in question in the said cause, and to tax him his costs of the said suit; and found that the sum of 814 *l.* 16 *s.* 9 *d.* would be due to the plaintiff for principal, interest, and costs on his said mortgage on the third day of *September* next; and which said sum of 814 *l.* 16 *s.* 9 *d.* the said Master thereby appointed the said defendant to pay to the said plaintiff on the said third day of *September* next, at the Chapel of the Rolls in *Chancery-lane, London*, between the hours of eleven and twelve of the clock in the forenoon of the same day; as in and by the said in part recited report, relation being thereunto had, may more fully and at large appear: Now know ye, that I the said *A. B.* have made, ordained, constituted, and appointed, and by these presents do make, ordain, constitute, and appoint *E. F.* of, &c. and *G. H.* of, &c. my true and lawful attorney and attornies, jointly and severally, hereby giving and granting full power and authority, for them my said attornies, or either of them, to attend at the said Chapel of the Rolls according to the said report, and for me, and in my name, and to my use, to ask, demand, and receive of and from the said *C. D.* the said sum of 814 *l.* 6 *s.* 9 *d.* And upon the payment of the said sum of 814 *l.* 6 *s.* 9 *d.* or any part thereof, receipts, acquittances, and other proper discharges in the name of me the said *A. B.* to make and give for the same, and to deliver and surrender up the said mortgage security, and all other my security and securities for the same, and generally to do and transact any other act, matter, or thing for the obtaining and receiving the same sum of 814 *l.* 6 *s.* 9 *d.* to the use of me the said *A. B.* as fully as I myself could or might do, if I was personally present: I the said *A. B.* hereby ratifying and confirming, and agreeing to ratify and confirm, all and whatsoever my said attornies, or either of them, jointly or severally shall lawfully do, or cause to be done, in and about the premises, by virtue of these presents.



In witness whereof, I the said *A. B.* have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, in the thirtieth year of the reign of our Sovereign Lord *George* the Third, by the grace of God, of *Great Britain, France, and Ireland*, King, defender of the faith, and so forth, and in the year of our Lord 1790. Sealed and delivered (being first duly stamped) in the presence of \_\_\_\_\_.

*Conveyance by Infant Mortgagee or Trustee, pursuant to 7th Ann. c. 19.*

**P**REFER a petition to the Master of the Rolls, when the same is answered get the order drawn up, passed, and entered.

Make a copy of the order for the Master, and leave with him a state of facts, and an affidavit in support of it.

The mortgage deeds, and an affidavit of the death of the mortgagee, and the age of the infant, are the only evidence necessary in support of the state of facts.

A petition must be presented to confirm the Master's report, and for a conveyance by the infant.

The petition, being answered, will stand in his Honour's paper of petitions for hearing.

The same proceedings as to a conveyance by an infant trustee.

Infant trustee directed to convey, though the trust estate abroad. 2 *Bro. Ch. Rep.* 325.

By 4 *Geo. 2. c. 10.* lunatics being trustees or mortgagees, are empowered by themselves, or by their committees, to convey the estates of which they are seised in trust or mortgage.

In cases where the trusts appear *in writing*, and it is plain the infant can have no interest, being a mere trustee, he will be ordered to convey in this summary manner; but where the trust is merely so by construction of equity, or is not declared by deed, then the party seeking a conveyance from an infant will be driven to file his bill. *Ex parte Vernon*, 2 *Wms.* 548. *Goodwin v. Lister*, 3 *Wms.* 386. *Hawkins v. Obeen*, 2 *Ves.* 549.

Infants cannot convey under a power without an act of parliament.

The court under the statute of 7 *Ann.* may order an infant, the heir of a mortgagee in fee, and who is likewise a feme covert, to levy a fine under the general words, *that persons under age shall convey and assure.* 3 *Atk.* 479.

An affidavit of service on the husband is not sufficient, he must consent by counsel to the prayer of the petition. *Ibid.*



*Of Certificates.*

**A** CERTIFICATE, as it immediately concerns the administration of equity in this court, is a matter in writing under the hand or hands of masters, officers, ministers, or delegates of the court, informing the court of something under their respective administrations or cognizance, that is done, not done, or misdome, which a standing or other order, or the mandate of the court, or their duty, or the reason of the thing, requires them to acquaint the court with. *Prac. Reg.* 54.

These certificates the court gives much credit to, especially from the Masters and standing officers of the court : Thus, where the Master certified that writings were not delivered in, the clerk offered to prove they were delivered in, but the court would not suffer an averment against the Master's certificate. *Ibid. Sel. Cas. in Chanc.* 5.

In the *caption* of answers taken in the country (which is a certificate of the commissioners) the town and county where, and the day and year when the answer is sworn by the defendant, ought to be inserted, otherwise the answer may be suppressed : So also in the *caption* of *affidavits*, *depositions*, &c.

The *certificate of commissioners* of any thing touching the execution of their *commission*, ought to be filed before admitted to be read, or made use of. *Prac. Reg.* 55.

As touching all matters relating to irregularities in mere matters of practice of the court ; the court, on motion or petition, usually orders such matters to be referred to the two senior six clerks, not in the cause, to certify whether such proceeding or process be regular or not ; and according to their certificate the parties are to abide ; and such certificate cannot be excepted to without particular leave of the court, which is very rarely granted.

After an answer is filed, and no proceedings in the cause for three terms after, you then acquaint the plaintiff's clerk in court, usually by leaving a note in writing with him (which is a mere matter of favour, and not strictly obligatory) *that you must dismiss the bill for want of prosecution* : And if he don't file a replication to the defendant's answer in two or three days after such notice given, which is the usual way to prevent a bill from being dismissed, you then get the six clerk's certificate the day the defendant's answer was filed, "*since which the plaintiff hath not replied, nor further proceeded in the cause, as appears by his book.*" And upon this certificate you then get counsel to move to dismiss the plaintiff's bill with costs to be taxed by a Master, which is a motion of course ; and having drawn up and entered your order,

you carry it to the Master to whom it is referred, with your bill of costs, which you leave with the Master, who gives you a warrant to serve on the plaintiff's clerk; and underneath the warrant write, "*the defendant hath left a bill of costs*"; and on the return of the said warrant, you take out a second warrant, and sometimes a third; and if no one attends on the other side, upon producing the warrants, and making oath of the service thereof on the plaintiff's clerk before the Master, he taxes the costs *ex parte*, and signs a report for the same, which you must file, and take out a *subpœna* for these costs from the *subpœna* office; which *subpœna* must be served personally on the plaintiff, and the costs demanded of him, which if he refuses to pay, you make an affidavit of the service of the *subpœna*, and of your demanding the sum of money of him, and his refusal to pay: And upon filing the affidavit, and having an office-copy thereof, you carry it to the defendant's clerk in court; and he makes you an *attachment* directed to the sheriff, to arrest the plaintiff for non-payment of those costs; which being done, and the plaintiff refusing to pay those costs, and also the costs of the arrest (which is ten shillings and sixpence), he is carried to the county gaol, where he must lie till he has paid those costs: But if the plaintiff absconds, and cannot be found personally to be served with such *subpœna*, upon affidavit thereof, the court will, upon motion or petition, order that service of such *subpœna* on the plaintiff's clerk in court shall be deemed good service; and upon such *subpœna* being served on the plaintiff's clerk in court, and the costs demanded of him, and his refusal to pay the costs, then, upon making and filing your affidavit thereof, an *attachment* is made against the plaintiff for those costs, as before; and upon a return by the sheriff of a *non est inventus* against the plaintiff, a *proclamation* issues against the plaintiff; and upon the like return thereof, a *commission of rebellion* directed to commissioners; and upon their like return, an order for a *Serjeant at arms* issues against plaintiff; and upon his like return, and certificate, you then obtain an *order* for a *sequestration*, directed to commissioners to sequester the plaintiff's real and personal estate, until he shall have paid those costs, and the court make other order to the contrary; and the plaintiff cannot discharge the *sequestration* until he has paid not only those costs, but also all the subsequent costs to be taxed by a Master.

*Note*; When process is thus carried on by way of *Non est inventus*, there must be fifteen days between the *teste* and return of each process; but if you arrest the plaintiff on such process, there is no occasion for fifteen days between the *teste* and return: And this rule holds good in all such process that is made against the defendant for want of his answer.

If the plaintiff files a replication to the defendant's answer, and proceeds no further in three terms after the replication filed, you then

then get the fix clerk's certificate thereof, and give notice in writing to the plaintiff's clerk in court to move that the plaintiff's bill may be dismissed out of court, with costs, to be taxed by a Master: And upon making an affidavit of serving such notice, and producing such certificate, your counsel moves to dismiss the bill with costs, to be taxed by a Master; which is always granted, unless the plaintiff's counsel shews some very urgent and sufficient reason to the contrary; and in such case the court will order the plaintiff to speed his cause to a hearing.

As soon as publication is passed in the cause, the plaintiff gets his fix clerk's certificate, that the pleadings in the cause are regularly filed, and publication passed, and he has seen the depositions; and upon such certificate you get the cause set down in court, or at the Rolls, either by the fix clerk, or by one of the Secretaries, or by the Register; and the Register will give you a certificate thereof, which certificate and precipe for a *subpœna* you carry to the *subpœna* office, where they will make you out a *subpœna* to hear judgment, which you must serve on the defendant (if he lives above ten miles in the country) fourteen days before the return thereof; and ten days on the defendant before the return, if he lives in *London*, or within ten miles thereof; unless it be between *Easter* and *Trinity* Terms, when by reason of the shortness of that vacation, ten days is held good for the service of such *subpœna* on the former, and eight days on the latter, between such service and return.

Where a matter of account or other thing is referred to the Master, and you think it will be necessary, and indeed upon matters of account it is usual to let alone examining the witnesses till after the hearing, and it comes before the Master, to examine witnesses with regard thereto, the Master upon request will grant a certificate for a commission, upon which you apply to the court for the same.

Or where interrogatories are exhibited for examination of any of the parties, or warrants are taken out to produce or do any other matter ordered by the court, who stands out till the expiration of the third warrant, or where any witness, upon being served with a *subpœna* to testify, does not attend and put in his examination, the Master or examiner will grant a certificate, and thereupon you may apply to the court that they may stand committed for a contempt.

If a defendant submits to a decree *nisi*, then on *affidavit* of the service of the *subpœna* to shew cause, and the register's certificate that no cause is shewn, the plaintiff's counsel move to make the last order absolute, on *affidavit* and certificate, which is a motion of course. *Vide Gilbert's Hist. and Pract. of Chan. p. 156.*



*Forms of some useful Certificates in Practice.**A Certificate of a Defendant not attending to be examined.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HESE are to certify, that upon the \_\_\_\_\_ day of \_\_\_\_\_ interrogatories were exhibited in my office, by the complainant in this cause, for the examination of the defendant touching a contempt supposed to be by him committed for breach of an injunction obtained in this cause, since which time the said defendant hath not attended to be examined thereupon. Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1790.

*Henry Filtcroft, Examiner.*

*A Six Clerk's Certificate of an Answer being filed, and no Proceedings since, in order to dismiss a Bill.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HESE are to certify, that the defendant's answer to the plaintiff's bill was filed the \_\_\_\_\_ day of \_\_\_\_\_, since which there has been no further proceeding, as appears by my book; this being the \_\_\_\_\_ day of \_\_\_\_\_

*N. W.*

*A Six Clerk's Certificate of no Proceeding after Replication.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HESE are to certify, that the defendant's answer to the plaintiff's bill was filed the \_\_\_\_\_ day of \_\_\_\_\_, to which the plaintiff replied the \_\_\_\_\_ day of \_\_\_\_\_, since which there has been no further proceeding, as appears by my book; dated this \_\_\_\_\_ day of \_\_\_\_\_.



*A Six Clerk's Certificate of Pleadings being filed in order to set down a Cause for hearing.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HESE are to certify, that the plaintiff's bill, and the defendant's answer, and the plaintiff's replication to the defendant's answer, are duly filed, as appears by my book. And I have seen the depositions published; dated this — day of —.

*The like Certificate in order to set down a Cause upon Bill and Answer.*

Between *A. B.* plaintiff,  
*C. D.* defendant.

**T**HESE are to certify, that the plaintiff's bill and the defendant's answer, are duly filed, as appears by my book, this being the — day of —.

### *Of Orders.*

**U**NDER this head, I do not design to treat of the general and standing orders, nor of such orders, as are made on hearings; but the orders here intended, are chiefly interlocutory orders, such as are antecedent to the decree.

And here we may observe, that there are many occasions intervening in a cause which require motions or petitions to set them right; now such directions as are given by the court on such motions or petitions, are commonly called interlocutory orders; and those orders are of several kinds, and are either of course, or special: Sometimes they relate to the prosecuting or carrying on of a cause, and sometimes they are touching process, &c. At other times they are founded on the standing orders of the court, and upon the particular circumstances of the case, and are made upon the application of some person, either plaintiff or defendant, interested in, or affected by the cause. When they are made upon hearing counsel on both sides, regard is always had to the general rules of the court; but when they are made by consent of parties, they are often out of the general rules, or course of the court; in which cases the special reasons, moving the court to vary from those rules, are always expressed in such order.

All orders must be pronounced in court, and drawn up by the then sitting Register, from his minutes taken in court; of which minutes the clerk in court, or solicitor of each side, may take a copy from the Register, in order to be informed of any thing that is special therein. And if in special cases any difficulty or doubt arises in the minutes, the parties may attend the Register, about explaining them; and if by this means they cannot be settled to the satisfaction of both parties, the court may be applied to, either by motion or petition, but usually by petition, to explain or amend them; and the court will order the Register and all parties to attend therein; when they attend by their counsel: And the court then makes such order about rectifying the minutes as they shall see cause.

But with respect to orders of course, or such orders as are not in special cases, there is no occasion to take a copy of the minutes, &c.

If you want an order drawn up upon a petition, you need only go to any one of the Registers for that purpose, and with him leave the petition: And if the order be obtained upon motion, then you may leave a brief with him, or other proper instructions, and from those, and his minutes, he draws the order; and after you have looked it over, and seen that it is right, you must return it to be passed (*i. e.* to have his hand or mark to it), which being done, you must leave it with one of the entering registers to be entered; after which, and not before, you may regularly serve it on the other side; for all orders must be passed and entered before allowed or served: and if either party expects any use or benefit by an order, it must be first drawn up, &c.

The Register is to take down all minutes truly; and in special cases, and upon hearings, they are usually so soon as pronounced, read over in court by the Register: and if the register draw up and pass any order contrary to the directions of the court (which very rarely happens), the Lord Chancellor, or Master of the Rolls, who made the order, will upon motion or petition appoint a day for both sides to attend, with the Register to set it right: and if it be in the vacation, and requires expedition, application may be made by petition.

Where any subsequent order is obtained, and a former order material for the court to take notice of, is concealed, or not truly and fairly represented, no benefit shall be taken of the subsequent order; but the court, upon motion, will either set aside, or alter the same, as obtained surreptitiously: and therefore the Register in drawing up such orders, always mentions the next precedent order, in which great care ought to be taken that it be fully and truly recited, lest a mistake therein should vitiate the order.

After

After orders are entered, they may not only be altered, but even discharged on good cause, by special direction of the court. And when a party moves to discharge an order, he must have it drawn up ready to produce to the court.

If counsel move in the morning to make an order *nisi* absolute, it is commonly granted provided cause be not shewn before the rising of the court; for the party has all the day during the sitting of the court, to shew cause: And an affidavit of duly serving the order *nisi*, is requisite on such motion; and without a motion and affidavit, such order is not absolute, although no cause be shewn, unless it be expressly so ordered: Moreover, if you move not to make such order *nisi* absolute till after the day given to shew cause, you must then not only produce the affidavit of the service of the order, but also a certificate from the Register that no cause is shewn to the contrary; and then, if upon moving no cause is shewn, the court makes it absolute.

Where an order is made upon hearing counsel of both sides, there is no occasion to serve it. *Mosley*, 202.

By the *Stat. 9 W. 3. cap. 15.* a submission to an award may be made an order of this court.

The usual way of serving an order, is to shew it to the clerk in court, or his clerk or agent, on the other side; and at the same time to deliver him a true copy thereof, or to leave a copy with the clerk in court, his clerk or agent, at his seat in the office, at the same time shewing him the original order duly passed and entered: But till the order in some special cases, *i. e.* a writ of execution of such order, under seal, be personally served, the party is not brought into contempt, nor to be committed for disobedience; though in the case of an order made against a solicitor, or officer of the court, it hath been held to be otherwise, and the bare service of the order deemed to be good; because he is supposed to be present, and to know what passes in court.

A party may be committed for not obeying an order personally served; as if there be an order against a solicitor to bring his bill before a Master to have the same taxed, and he refuses to bring such bill before the Master, then, upon the Master's certificate that he hath not brought such bill, and on an affidavit that such solicitor hath been personally served with a true copy of such order, the court, on motion, will commit such solicitor.

And as to disobedience to orders, the doing a thing against which there is an injunction, is always looked upon as a greater contempt than where something is ordered to be done; for the former is still in a man's power, the latter not so.

On an order for payment of costs, a *subpoena* for such costs must be served personally, and the costs at the same time demanded; which costs, by the *subpoena*, are payable to the plaintiff,

(or



(or defendant,) or bearer. And if it be an order for payment of other money, a writ of execution of such order is to be personally served; and if the party himself to whom it is payable do not attend to receive it, at the same time the writ of execution is served, he must execute a letter of attorney to the person that serves the writ of execution, authorising him to demand and receive such money ordered or decreed in such writ of execution; and until the order under seal be served on the party himself, he is not *ordinarily* to be committed, or prosecuted, for contempt or disobedience thereto.

The Register is not to draw up or sign any order grounded upon an affidavit, unless it be first filed.

No orders, but final and decretal ones, shall be received to be entered after eight days of pronouncing them. This rule is however often dispensed with; and if same entered of Term pronounced, it is sufficient if not entered in due time, and it should be necessary to enter same, an order, on motion or petition must be obtained, to enter same *nunc pro tunc*. *Chan. Caf. 437.*

Solicitor's assent to interlocutory orders may bind, but not to a reference finally to determine. 1 *Chan. Cu. 87.*

If one is brought into court to answer the breach of an order, if within the year, he shall answer upon interrogatories, without a bill; but if after the year, a bill ought to be filed to set forth the breach. *Danv. 776.*

A mistake in the title of an order, amended, though against a surety that gave a recognizance to abide the order of hearing. 2 *Vern. 376.*

*A.* being beyond sea, sued *B.* at law; *B.* brings a bill in equity against *A.* the court will order, that service on the defendant's attorney at law shall be good service; but not that such attorney shall put in an answer without oath. 1 *P. Will. 523.*

An order made by the Lord Chancellor may in court be discharged by the Master of the Rolls, when he only is sitting there; but if it be a matter of difficulty, he will not ordinarily meddle with it, except by consent of parties. *Pract. Reg. 260.*

If he upon whose motion, or for whose benefit an order is made, does not draw it up, &c. he cannot ordinarily make any use of it, or have any benefit by it: but where a bill to redeem the wife's inheritance was dismissed with costs for want of prosecution, the order not being drawn up, the plaintiffs pray to retain the bill, the defendant makes affidavit of the husband's being beyond sea, and prays that before the bill be retained, the plaintiffs may pay the costs of the dismissal; the court ordered the plaintiffs to give security to redeem and to pay the costs on the dismissal, if the same were taxed, else not; and then the bill to be retained. *Pract. Reg. 259.*

But



But the general course is, that if either party will make any use, or expect any benefit from an order, it must be drawn up and perfected. *Prac. Reg.* 259.

Orders after decree past are never to retract from the decree, but to carry it on with effect. *3 Pr. Alm.* 11.

In the year 1707, upon a bill of foreclosure, it was referred to a Master to take an account of what was due to the mortgagee for principal, interest, and costs, and the Master's report was confirmed *nisi*; and by the register's minutes, at a subsequent seal in the same cause, it was taken down *order absolute*, but never entered; the register refuses to enter it now, and the application is to the court for an order *de novo*.

Lord Chancellor: To enter an order *nunc pro tunc*, is a motion of course, where the party entitled to the order come recently: but I apprehend, after a length of time there ought to be notice of such motion; and what is prayed now goes still further; but as it would be very hard at this distance to open a foreclosure, I will give the other side an opportunity of enquiring at the office, to see if they can make out the minute in the register's book to relate to some other matter in the cause, and not the foreclosure\*: and therefore if it should appear on further search, that it was the order *nisi* which was made absolute for confirming the Master's report, I shall then direct according to the prayer of the petition.

Motion to discharge an order made on petition:

Lord Chancellor: It is not the course of the court to move to discharge these orders on petition made on hearing counsel on both sides: on petition *ex parte* indeed it is done every day. I do not say there may not be such a case; but I know no instance of it, where made by the Lord Chancellor. How it is, when made by the Master of the Rolls, I know not. *2 Ves.* 113.

The parties interested in an order for the appointment of a receiver, take upon them to print it with a recital of the material facts in the cause relevant to the order, and disperse the same among the tenants: some other parties insisted this was a contempt of the court: Lord *Hardwicke* held it to be no contempt, but said, at the same time, he did not approve of such practice. *2 Atk.* 488.

Where there has been an order that a cause should stand over indefinitely, it does not imply that the cause is put off only to the next term. *Per Lord Hardwicke, ibid.* 2.

If a person applies to this court for an order of reference to a Master to tax a bill, upon an undertaking to pay, and the person

\* *3 Atk.* 521. *Note*, In the courts of law, for instance, in the Common Pleas, where a recovery has not been entered upon record, if it appears by the minutes in the prothonotary's book that it was suffered at bar, the court will suffer it to be entered, but then, it must be with a proviso, that it does not prejudice any subsequent purchaser.

who obtains the order dies ; his representative shall not revive it but upon the same terms, the undertaking to pay. *Ibid.* 115. *Vid.* also 2 Geo. 2. c. 33. *An act for the better regulation of attornies and solicitors.* And note, by the 23d sec. of this act, a solicitor must leave a copy of the execution of the order for taxation, and the Master's report of the sum at which the bill is taxed, at the defendant's house, or it will not bring him into contempt without such service, for the act of parliament does not alter the old method of proceeding in this respect.

### *Forms of Orders.*

#### *An Order to make an Election.*

**F**ORASMUCH as this court was this present day informed by Mr. —, being of the defendant's counsel, that the plaintiff doth prosecute the said defendant both at law and in this court for one and the same matter, whereby the defendant is doubly vexed ; it is therefore ordered, that the plaintiff do, within eight days after notice to his attorney at law and clerk in court, make his election in which court he will proceed ; and if he shall elect to proceed in this court, then his proceedings at law are stayed by *injunction* ; but if he shall elect to proceed at law, or in default of such election by the time aforesaid, then the said plaintiff's bill is from thenceforth to stand absolutely dismissed out of this court with costs to be taxed by Mr. —, one of the Master's of this court.

#### *Order to serve a Subpœna upon an Attorney.*

**U**PON opening the matter of this day, &c. being of the plaintiff's counsel ; and upon reading of an affidavit whereby it appears that diligent search and enquiry hath been made after the defendant, but he cannot be met withal to be personally served with a *subpœna* issued out of this court, at the plaintiff's suit, neither can his habitation or place of abode be discovered ; it is thereupon ordered, that the leaving a *subpœna* with the defendant's attorney at law be deemed a good service of the said defendant, whereby to compel him to appear to and answer the plaintiff's bill.

#### *Order to add a Defendant to a Bill.*

**U**PON consideration this present day had by the right honourable the Master of the Rolls, upon the plaintiff's humble petition, for the reasons therein contained, it is ordered that

that the said plaintiff be at liberty to insert into his bill the name of — with apt words to charge him as a defendant thereunto.

*Order to assign a Guardian.*

**U**PON motion made this day unto this court by Mr. —, being of counsel with the said defendants the infants, it was alledged that the said defendants the infants, being served with process to appear to and answer the plaintiff's bill, have appeared thereto, but cannot answer the same without having a guardian assigned them for that purpose; it is thereupon ordered that a commission be awarded to commissioners therein to be named, to assign a guardian for the said defendants the infants, by whom they may answer and defend this suit.

*Order to set down a Demurrer.*

**U**PON the plaintiff's humble petition this day preferred to the right honourable the Lord High Chancellor of Great Britain, for the reasons therein contained, it is ordered that the demurrer put in by the defendants to the plaintiff's bill be set down to be argued the next day of demurrers after the demurrers already appointed; but this order is to be drawn up, and the demurrer entered with the Register within four days, or else the Register is to take no notice hereof.

*Order to over-rule a Demurrer.*

**T**HE matter upon the demurrer put in by the defendant to the plaintiff's bill coming this day to be heard before the right honourable the Lord High Chancellor of Great Britain, in the presence of counsel learned on both sides, his Lordship upon opening and debate thereof, and hearing what could be alledged on either side, doth order that the defendant do answer the plaintiff's bill, and that the demurrer do stand over-ruled.

*Order to dissolve an Injunction unless cause.*

**W**HEREAS the plaintiff obtained an injunction for stay of the defendant's proceedings at law, for the matters here in question, until the defendant should directly answer the plaintiff's bill, and this court take other order to the contrary;



trary; now upon opening of the matter this day unto this court by Mr. —, being of the defendant's counsel, it was alledged that the defendant hath since put in a full and perfect answer to the plaintiff's bill, and thereby denied the whole equity thereof: It was therefore prayed, that the said *injunction* do stand absolutely dissolved, which is ordered accordingly, *unless* the plaintiff's clerk in court having notice hereof shall on — next, shew unto this court good cause to the contrary.

*Order to examine the Regularity of an Attachment, &c.*

**U**PON opening the matter this day unto this court by Mr. —, being of the defendant's counsel, it was alledged that the plaintiff hath irregularly sued forth an *attachment*, and arrested the defendant thereon, before the time for answering was elapsed; whereupon it is ordered that Mr. — one of the Masters of this court do examine and certify whether the *attachment* did duly and regularly issue or not, and in the mean time all proceedings on the bail-bond are stayed.

*Order to examine into the Irregularity of returning a Proclamation.*

**U**PON the humble petition of the said defendant this day preferred to the right honourable the Master of the Rolls, shewing that the plaintiff, contrary to the rules and practice of this court, hath sued out process of contempt against the defendant to a *proclamation*, which the plaintiff hath procured to be returned without endeavouring to arrest the defendant on the first or other of the said process; whereupon it is ordered that it be referred to the two senior six clerks not concerned in this cause, to examine and certify touching the said irregularity; and in the mean time all further proceedings on the contempts are stayed.

*An Order for the Six Clerks to certify the due taking of the Defendant's Plea, Answer, and Demurrer.*

**U**PON motion this day made unto this court by Mr. —, being of the plaintiff's counsel, it is ordered that the two senior six clerks, not concerned in this cause, do examine and certify whether the defendant's answer, plea, or demurrer, be duly and regularly taken and returned or not, and whether the commission for taking the same duly issued.



*Order for a Habeas Corpus.*

**F**ORASMUCH as this court was this present day informed by Mr. ———, being of the plaintiff's counsel, that the defendant, being served with process to appear to and answer the plaintiff's bill, doth refuse so to do, but sits in contempt to an *attachment* for want thereof, on which he hath been arrested, and is now a prisoner in the *Fleet* prison; it is thereupon ordered that a *habeas corpus* be directed to the Warden of the *Fleet* at the return thereof, to bring the body of the said defendant to the bar of this court to answer his said contempt; whereupon such further order shall be made as shall be just.

*Order to refer a Second Answer.*

**U**PON opening of the matter this day unto this court by Mr. ———, being of the plaintiff's counsel, it was alleged that the plaintiff having taken exceptions to the insufficiency of the defendant's first answer, the defendant hath put in a second answer, which the plaintiff is advised is also insufficient; it is therefore ordered that it be referred to Mr. ———, one of the Masters of this court, to look into the said bill, answers and exceptions, and examine and certify whether the said defendant's answers be sufficient in the points excepted unto or not.

*Order for a Commission to examine de bene esse, and to refer Exceptions.*

**F**ORASMUCH as this court was this present day informed by Mr. ———, being of the plaintiff's counsel, that the plaintiff long since exhibited his bill unto this court against the defendant, whereunto the defendant hath put in insufficient answers, and hath thereby delayed the plaintiff's proceedings to issue in this cause, by which means the plaintiff is like to lose the testimony of a very material witness, he being a great dealer at sea, and now ready to go a voyage beyond sea; it was therefore prayed that the plaintiff may take out a commission to examine his witnesses *de bene esse* to preserve their testimonies, and the defendant may join in the same if he pleases; which is ordered accordingly; and it is further ordered, that the bill, answers and exceptions be referred to one of the Masters of this court to consider of the same.

*Order to renew a Commission.*

**U**PON opening of the matter this day unto this court by Mr. —, being of the defendant's counsel, and upon reading of an affidavit whereby it appeared that the defendant could not procure *A. B.* and *C. D.* his commissioners to be present at the execution of the said commission, which was executed the last vacation in this cause; and forasmuch as the said defendant hath many material witnesses to examine in this cause, as namely *E. F.* and *G. H.* which he could not procure to be examined by the said commission; it was therefore prayed that the said defendant might renew the said commission returnable —, which this court held reasonable, and doth order the same accordingly.

*Order to stay Proceedings on Exceptions to a Report.*

**U**PON motion this day made unto this court by Mr. —, being of the defendant's counsel, it was alleged that the defendants have filed exceptions to the report made in this cause by Mr. —, one of the Masters of this court, bearing date the 22d of — last, and deposited 5 *l.* with the Register according to the rule of this court, as by the Register's certificate appears; it is thereupon ordered that all proceedings upon the report be stayed until the matter upon the said exceptions shall be heard and determined by this court.

*Order to confirm a Report unless cause.*

**U**PON opening of the matter this present day by Mr. —, being of the plaintiff's counsel, and upon producing of a report made in this cause by Mr. —, one of the Masters of this court, bearing date the — day of — instant, it is ordered that the said report, and all the matters and things therein contained, do stand ratified and confirmed by the order, authority and decree of this court, to be observed and performed by all parties thereto, according to the tenor and true meaning thereof, unless the said defendant, having notice hereof, shall within eight days after such notice shew unto this court good cause to the contrary.

*Order for a Superseas upon an Arrest.*

**U**PON consideration had this present day by his Honour the Master of the Rolls, upon the defendant's humble petition, and of the Master's report therein mentioned, whereby it

it appears above 500 *l.* is reported due to the defendant, and that the defendant came up to town only to defend and prosecute exceptions taken to that and another report, whereof one of them is referred to a trial at law, and that during the defendant's attendance here on that occasion he is arrested at the plaintiff's suit, as by affidavit annexed appears, contrary to the privilege that suitors ought to have in going, attending, and returning; his Honour doth thereupon order, that a *superfedeas* do issue to the Sheriff of *Middlesex* to discharge the said defendant, of the said arrest, he being only arrested on mesne process.

*Order to dismiss a Bill for want of a Replication.*

**F**ORASMUCH as this court was this present day informed by Mr. —, being of the defendant's counsel, that the plaintiff exhibited his bill into this court against the said defendant in *Michaelmas* Term last, to which the defendant answered the same Term, since which time the said plaintiff hath not further proceeded in this cause, as by certificate now read appeared; it is thereupon ordered that the said plaintiff's bill do stand dismissed out of this court with costs; and it is hereby referred to Mr. —, one of the Masters of this court, to tax the said costs.

*Order nisi for a Subpoena duces tecum.*

**U**PON motion this day made unto this court by Mr. —, being of the plaintiff's counsel, it is ordered that a *subpoena duces tecum* be awarded against the said defendant to bring into this court certain deeds and writings by him confessed in his answer to be in his custody, or at the return thereof to shew cause to the contrary.

*Order for a Subpoena duces tecum.*

**F**ORASMUCH as this court was this present day informed by Mr. —, being of the plaintiff's counsel, that the defendant having by his answer to the plaintiff's bill confessed the having in his custody a feoffment or other writing of the lands in question, conveyed from *A. B.* to *C. D.* wherein the plaintiff claimeth title; it was therefore prayed that a *subpoena duces tecum* may be awarded against the said defendant to bring the said writings into court, which is ordered accordingly.



*Order for a Serjeant at Arms.*

**W**HEREAS the said defendant hath set out all process of contempt to a *commission of rebellion*, for want of his answer to the plaintiff's bill, as by the same under the seal of this court, and the commissioners' certificate thereupon indorsed, whereby the said commissioners do certify that the said defendant doth abscond himself so that he cannot be taken thereupon, now produced appears; it is therefore ordered, upon the motion of Mr. — being of the plaintiff's counsel, that the Serjeant at arms attending this court, do apprehend the said defendant and bring him to the bar of this court, to answer the said contempt.

*Order to examine Viva Voce.*

**U**PON motion made this day unto this court by Mr. —, being of the plaintiff's counsel, it is ordered that the plaintiff be at liberty to examine one or more witnesses *viva voce*, at the hearing of this cause, to prove the execution of a certain deed or writing bearing date the — day of — 1767, made between *A. B.* of the one part and *C. D.* of the other part, and also a bond from *E. F.* to *G. H.* bearing date the — day of — 1767, in the penalty of 100 *l.* for payment of 50 *l.* and interest to the said *G. H.* saving to the defendant all just exceptions.

*Order for a Subpoena in nature of a Scire Facias.*

**U**PON opening of the matter, &c. by Mr. —, of the plaintiff's counsel, it was alledged that the plaintiff having obtained a decree against the defendant, he died before the performance thereof, leaving *C. D.* Esq. his brother and heir; wherefore it was prayed that a *subpoena* in nature of a *scire facias* might be awarded against the said *C. D.* to shew cause at the return thereof why the said decree should not stand revived against him, and be of the same force and effect as the same was at the time of the decease of the said *C. D.* which is ordered accordingly.

*Order to stay Proceedings on a Decree, upon filing a Bill of Review.*

**U**PON opening, &c. it was alledged that the said plaintiff hath filed a bill of review against the said defendant, and also given security by recognizance to abide such order as the



the court shall make upon hearing this cause upon said bill of review, according to the course of the court, as by certificate appears, and yet the said defendant doth prosecute the plaintiff with process of contempt for not performing the former decree made in this cause; it was therefore prayed that the plaintiff's bill of review may be admitted, and that all proceedings on the said decree may be stayed till the matter of the said bill of review be heard and determined by this court; which is ordered accordingly.

*Order to stand committed for not performing a Decree.*

UPON the plaintiff's humble petition this day preferred to the right honourable the Lord High Chancellor of Great Britain, it was alledged that the plaintiff in — Term — obtained the decree of this court against the defendant, for vacating a recognizance, amongst other things therein contained, and that the said defendant hath stood out all process of contempt to a *commission of rebellion*, which hath been several times renewed against him, he absconding, that he could not be taken till now of late; and thereupon the said defendant entered his appearance with the Register of this court, and hath since been examined upon the contempt; and the said examination having been referred to Mr. —, one of the Masters of this court, the said Master hath certified the said defendant is guilty of the said contempt; and forasmuch as the said plaintiff hath not had any benefit of the said decree, but hath been at great charges in prosecuting the said defendant, and endeavouring to compel him to yield obedience thereunto, which he hath obstinately refused to do, to the great damage of the said plaintiff; it was therefore prayed that the said defendant might stand committed unto the prison of the *Fleet* until he shall perform the said decree; which his Lordship held reasonable, and doth order the same accordingly.

*An Order for an Injunction to put and quiet the Plaintiff in Possession, according to a Decree.*

UPON opening the matter this present day unto this court by Mr. —, being of the plaintiff's counsel, it was alledged, that by a decree of this court, bearing date the — day of — 1767, as also by a former decree, of the — day of — 1765, the defendant is to execute a conveyance of a certain tenement and farm in — the county of — to — old to the plaintiff and his heirs, after the death of — and

L 4

hold

hold — his wife, both since deceased, which the plaintiff and his heirs are to have and enjoy accordingly; and that the defendant do deliver up the writings touching the premises to the plaintiff upon oath; and that the defendant hath been duly served with the said decree, and conveyances directed to be settled by Mr. — one of the Masters of this court, and which were settled accordingly, have been tendered to him to execute, which he refuses to do, as by affidavit now produced appeared, and is in contempt for breach of the said decree; it was therefore prayed that an injunction may be awarded to put and quiet the plaintiff and his assigns in the possession of the said premises, according to the said decree; which is ordered accordingly.

*Paying and receiving Money in Court.*

**A**LL sums of money ordered or decreed to be paid into this court, must, pursuant the stat. 12 Geo. 1. c. 33. be paid into the Bank, with the privity of the Accountant General of this court, and placed to the credit of the cause: and any of the parties to the suit, where money is ordered to be paid into the Bank, may apply by motion or petition, that such money may be laid out, and invested in government securities for the benefit of the parties interested in the cause.

The decree or order directing money to be paid into the Bank, in the name, and with the privity of the Accountant General of this court in trust in the cause, being drawn up, passed and entered at the Register Office, is to be produced at the Accountant General's Office, and the Accountant General will thereupon give a direction in writing to the party paying in the money, to pay the same to one of the cashiers of the bank pursuant to the order. The party or his solicitor must attend the cashier accordingly; and when the money is paid, the cashier gives a receipt for the sum paid by the party paying the same, which receipt the solicitor either brings to the Accountant General's Office, or leaves with the cashier; the receipt is afterwards left by one of the clerks of the Accountant General's Office at the Report Office to be filed. The last and only remaining requisite is the Accountant General's certificate of the money being paid, wherein is stated the title of the cause, and that in pursuance of the order dated — the plaintiff or defendant hath paid into the Bank of *England*, the sum of — which is placed to his account as Accountant General and to the credit of that cause in the books kept at the Bank, and in his office, as appears by the receipt of — one of the cashiers of the

the Bank, dated the — day of — thereto annexed. This certificate is filed by the Accountant General, at the Report Office, an office copy whereof must be taken from the Accountant General's office by the solicitor, and this being done, the whole is completed.

The party entitled to money in this court, in order to obtain the same, must give notice in writing to all the parties in the suit, of his intention to move the court, that the specific sum to which he is entitled may be paid or transferred to him by the Accountant General of this court. This notice being served in the usual manner, upon the clerks in court for the several parties; the Accountant General's certificate of so much money standing in his name, to the credit of the cause, should be bespoken at the Accountant General's office, a day or two previous to the day whereon the motion is to be made: the court, upon hearing the report, or order, in favour of the party applying, and the certificate of the Accountant General, will make an order upon the Accountant General, to pay or transfer the money pursuant to the notice; and to obviate any difficulty, an office copy of the affidavit of service of the notice should be ready to be read if called for.

The motion being made, and the matters ordered, the counsel's brief must be taken to the Register office, and the order drawn up, passed, and entered; a certificate must be obtained from the Report office, and the order and certificate being produced at the Accountant General's office, the party entitled should attend with his clerk in court (the solicitor will not be sufficient) at the Accountant General's office, who will identify the person applying to be the person to whom the order has directed the money to be paid. And upon the party signing a receipt in the Accountant General's book, the Accountant General will give a cheque note upon the Bank, which being entered at the Report office, must be carried to one of the registers to be signed by him. This being done, the party will upon application at the Chancery office in the Bank, receive his money.

Parties only, or their legal representatives or assigns, can obtain money from the Accountant General's office. Representatives must shew themselves to be such, by producing letters of administration, probate of the will, or assignment, as the case may be, before they can receive the money. If the person to whom the money is due, cannot conveniently attend to receive the same, he must execute a letter of attorney, authorising such person as he shall think proper to receive the same; and on producing and leaving the letter of attorney, and an affidavit of the due execution thereof at the Accountant General's office, he will the upon give to the person named therein, a cheque note upon the Bank, to receive the money due. This letter



of attorney is usually made out at the Accountant General's office.

In order to apply to the court for money due to infants, who have attained their age of twenty-one years, a petition stating the circumstances of the case, must be drawn and ingrossed upon treble sixpenny stamped paper, in the usual form, and presented either to the Lord Chancellor or Master of the Rolls, and when answered, a copy thereof with his Lordship's or his Honour's order thereon, must be served upon the clerks in court for the parties interested in the suit, three or four days previous to the attendance ordered. The Accountant General's certificate of the money in the cause, and to whose account, must be also procured from the Accountant General's office, and also the Master's reports, and the necessary decrees and orders in the cause, a certificate from the parish register book of the baptism of the party applying, and also an affidavit verifying the certificate, and that the person applying, is the person mentioned and described in such certificate. And upon hearing the report of the money due, the decrees, &c. and the certificate read, the court will make an order upon the Accountant General to transfer or pay the money reported due, unless upon the adverse party's default of attendance the affidavit of service of the petition should be wanting, to prevent which it is adviseable to have one ready to produce, if called for. The order is to be drawn up, passed and entered, at the Register office, and the money ordered to be procured from the Accountant General, in manner herein before mentioned.

*Note* ; For the necessary certificate, affidavit and petition, see those heads in the index.

When money, by an order of this court, is paid into the Accountant General's hands, to be placed in the Bank, till it can be laid out according to the directions of the decree, if you move for an application of this money, you must not only have a certificate that the money was paid into the Bank, but that it is actually in the Bank, at the time of the motion made. 1 *Atk.* 519. Anon.

*A.* by will gave stock to *B.* for life, remainder to *C.* and made *B.* executor. *B.* having bought *C.*'s remainder, a conveyance was made to him of the remainder in the stock, and *B.* and *C.* joined in an application to the Bank to transfer the whole into *B.*'s name, and a power of attorney was procured and filled up for the same purpose. The Bank refused to make the transfer, and upon bill filed, the court decreed the Bank to suffer the transfer to be made. The question then was, whether the Bank should have costs. Lord Chancellor took time to consider of it, and afterwards ordered the Bank to be paid their costs. 2 *Bro. Chan. Rep.* 520.

The



The Bank were made parties to a bill, to discover what sum an executrix had transferred into her own name; but they need not have been brought on to a hearing; and on that account, therefore the plaintiffs were ordered to pay the Bank their costs.

2 *Bro. Cha. Rep.* 87.

Estate ordered to be sold for payment of debts; money raised under sequestration, paid into Court, (upon the motion of sequestrators for their indemnity,) though contempt cleared: the estate being liable to creditors in the first instance. 1 *Ves. Jun.* 89.

Trust Fund, which under a power in marriage settlement had been lent to the husband, decreed to be paid into Court, the trustees representing it to be in danger. *Ibid.* 170.

The Court will not keep money after the party is entitled to it, even at his request. *Ibid.* 44.

When an order is made by consent for a sum of money to be paid into Court, no man can dispense with it; for no person shall presume, after an order has been made, to take upon himself to dispense with it upon the tacit acquiescence of the other side, or an idea of his own. 2 *Ves. Jun.* 38.

Where money is directed by a private act of parliament to be paid to the *Accountant General*; he is bound by the act to receive it, and the court will not make an order for that purpose. 1 *Ves. Jun.* 56.

The Court will now, immediately upon coming in of defendant's answer, order so much as he admits to have in his hands of the testator's property to be paid into the bank. It was formerly thought necessary for the plaintiff to shew that the executor had abused his trust, or that the fund was in danger from the insolvent circumstances of the executor. 3 *Bro. Cha. Rep.* 365.

Motion to pay money into Court refused, the affidavit not specifying the sum in defendant's hands. 1 *Bro. Ch. Rep.* 57.

Money in the funds, belonging to wards, cannot be transferred into the name of the *Accountant General*, to the credit of the cause, until an account is taken by a Master, and his report made. *Ibid.* 56.

The Court will retain monies decreed to parties, on the application of persons having claims upon them. 4 *Bro. Ch. Rep.* 430.

Where money has been ordered to be paid, the motion is, that the party shall pay it by a short day, or stand committed. 3 *Bro. Ch. Rep.* 372.

By an order dated 2d *July* 1739, reciting the act passed 12 *Geo. 2.* intituled, "An Act to impower the high court of Chancery to lay out, upon proper securities, any monies, not exceeding a sum therein limited, out of the common and general

“ neral cash in the Bank of *England*, belonging to the suitors  
 “ of the said court, for the ease of the said suitors, by applying  
 “ the interest arising therefrom, for answering the charges of  
 “ the office of the Accountant General of the said court,” It is  
 enacted, that out of the money that lies dead in the Bank, be-  
 longing to the suitors of this court, a sum not exceeding 35,000 *l.*  
 should, by virtue of an order of this court, be placed out in one  
 intire sum for the purposes thereafter mentioned. Whereupon  
 it is ordered, that out of the cash in the Bank belonging to the  
 suitors of this court, 35,000 *l.* be placed out with the privy of  
 the Accountant General in the purchase of 3 *per cent.* annuities  
*anno 1731.* in trust for the suitors of this court, subject to the  
 further order of the court. And out of such interest the Bank  
 is from time to time, without any draft, to pay, by quarterly pay-  
 ments, the annual sum of 1020 *l.* in manner following, that is  
 to say, To *Mark Thurston*, Esq. Accountant General of this  
 court, 650 *l.* to Mr. *John Waple*, his first clerk, 250 *l.* and to  
 Mr. *Henry Nowell*, his second clerk, 120 *l.* till the further order  
 of the court, which salaries are to be in lieu of, and in recompence  
 and satisfaction for, all fees which shall be payable to the Ac-  
 countant General's office by the suitors of this court. And it  
 is farther ordered, that from the 29th of *September* then next, no  
 fee or fees whatsoever be taken at the Accountant General's  
 office, or by any officer or clerk belonging thereunto, for any  
 matter or thing directed to be done by the act 12 *Geo. 1.*

And by an order 1st *August 1741*, touching inconveniences  
 that may arise in receiving from the Exchequer the annuities  
 due, and which shall grow due, on Exchequer orders and tallies,  
 for want of having the same entered at the Exchequer, and pro-  
 per indorsements made thereon, that the annuities of such or-  
 ders are to be paid to the cashiers of the Bank, of *England* for  
 the use of the suitors, It is ordered that the Bank of *England* do,  
 by their proper officer or officers, send to the Exchequer all such  
 Exchequer orders belonging to the suitors of this court, and then  
 in the Bank, to the intent that the proper officer or officers of  
 the Exchequer may make entries in the books kept there, and  
 indorsements on the said orders, that the annuities due and which  
 shall grow due thereon respectively are to be paid to one of the  
 cashiers of the Bank of *England* for the time being, to be placed  
 to the credit of the respective causes to which the said orders do  
 belong, and to no other person or persons whatsoever without  
 the further order of this court; and that the like entries and in-  
 dorsements be made on all such Exchequer orders, as shall here-  
 after be delivered into the Bank on account of any of the suitors  
 of this court, by virtue or in consequence of any decree or order  
 of this court.

Prerogative

Prerogative probate necessary when the sum exceeds 30 *l.* in order for the Accountant General to pay money out of court. Inferior sums are paid upon the probate of the Ordinary of the diocese only.

### *Of the Writ of Certiorari.*

**T**HIS writ (as it concerns proceedings in a court of equity) is commonly directed to a judge of some court of equity, admiralty, or other inferior court, requiring him to certify or send to this court the tenor of a bill or plaint, with the process and proceedings thereon: but this writ is not granted to remove proceedings in a cause, till the plaintiff produce a certificate from the fix clerk that the bill is filed, and before the plaintiff enter into a bond to the Master of the Rolls to prove the suggestion of his bill within fourteen days of the return of the writ, which is usually made returnable within fourteen days after receipt thereof.

*Prac. Reg.* 55. *Prac. H. Ch.* 7.

This writ lies not upon *English* bill to remove *Latin* proceedings out of a court of law into this court, which cannot in that way hold plea thereupon: so plaintiff in an inferior court of equity shall not remove the proceedings hither by *certiorari*. *Chan. Rep.* 109.

Two plaintiffs here sue for lands in the county palatine of *Durham*; one of them lives in *Middlesex*, and the other is an old infirm man, and unable to follow the suit, therefore a *certiorari* was granted to the Chancellor of *Durham* to certify the proceedings depending before him into this court. *Chan. Rep.* 68.

### *A Writ of Certiorari.*

**G**EORGE the Third, &c. To the Mayor and Aldermen of *London*, greeting. We willing, for certain causes, to be certified of and upon a certain petition or bill of complaint before you, against *C. D.* and *E. F.* at the suit of *A. B.* lately exhibited and now depending, commanding you that the petition or bill aforesaid, with all things touching the same, by whatsoever names the parties aforesaid, or any or either of them, are or is set down, before us in our Chancery, truly, fully, and exactly, as in your custody they now remain, under your seals distinctly and openly ye send immediately, and this writ, that further thereof we may cause to be done that which of right ought to be done. Witness ourself at *Westminster* the — day of —, in the — year of our reign.

Indorse,



Indorse, { *By the Lord High Chancellor of Great Britain.*

*In the matter of C. D. and another.*

21st Feb. 1790. This writ allowed by the court [meaning the Lord Mayor's court.]

The execution of this appears in a certain schedule annexed.

The answer of Sir ———, Knt. Lord Mayor, and the Aldermen of the City of *London*.

For more upon this subject, *vid.* title *Certiorari* Bills, vol. 1.

#### *Of the Writ of Procedendo.*

**A** *Procedendo* is a writ to the judge of an inferior court, requiring him to proceed in a cause formerly removed hither by *certiorari*, or other writ, or stayed for some time by *superse-deas*. 3 *Px. Alm.* 59. *Cl. Tut.* 299.

If the plaintiff in a *certiorari* bill fail of making his proof in fourteen days, a *procedendo* may be issued, except he get an order of the court for further time, upon affidavit that his witnesses are beyond sea, or very remote, or such like. *Pr. H. Ch.* 8.

#### *Of the Writ of Ne exeat Regno.*

**T** HIS is a writ to restrain a person from going out of the kingdom without the king's licence, or the leave of this court. *Prac. Reg.* 250.

By the common law, any man might go out of the realm at his pleasure, without the King's licence, except he were interdicted by proclamation, writ, or mandate under the privy seal or signet: but, by the statute of 5 *R. 2. c. 2.* none, except lords and other great men, notable merchants, and the King's soldiers, were to go out without the King's special licence. *Fitz. Nat. Br.* 85.

This writ was formerly called a statute writ, and these sparingly made use of; but it is now considered a remedial writ, and as such become a common process of the court; it issues at the commencement of a suit, when the plaintiff apprehends the defendant will fly to foreign parts, and thereby endeavour to avoid the justice of the nation; it is granted at the instance of the plaintiff, by his application to court, upon motion or petition \*, and affidavit that the defendant is going beyond sea †,

\* *Prac. Reg.* 251. It is said to have been settled by the late Lord Keeper *Wright*, that it being a remedial writ, is as such, upon due application by petition or motion, to be granted the subject.

† By a standing order in Lord Chancellor Cowper's time, oath is to be made of the debt.

and



and of money due to the plaintiff; and which, if defendant should have an opportunity of leaving the kingdom, plaintiff would be in danger of losing: this writ is always marked on the back thereof with the sum sworn to, as a guide to the sheriff\* (to whom only it is generally directed) to take sufficient surety by bail-bond for yielding obedience thereto, in that defendant will not depart the realm without permission of the court first obtained; and on defendant's refusal to enter into such bond, the sheriff may carry him to prison. 1 *Chan. Caf.* 245.

When a party is taken, he must give a bond to the Master of the Rolls, in such penalty as the writ requires for yielding obedience thereto, or satisfy the court by answer, affidavit, or otherwise, that he hath no design of leaving the kingdom, or that he is not indebted to the plaintiff in any sum of money whatever; then he may give notice and move the court that the writ may be discharged, and upon hearing counsel on both sides, the court will either discharge or continue the same. *Prac. Reg.* 252.

But *note*; the modern practice is for the defendant to give security to abide the decree pronounced on hearing, before the court will discharge the writ, which security is taken by recognizance before a Master, as all other securities are; so it is observable that a defendant, when taken on a writ of *ne exeat regno*, seems obliged to enter into no less than three different bail-bonds, before he can be discharged or set at liberty, *viz.* in one to the sheriff, in another to the Master of the Rolls, and in a third to a Master in Chancery.

While this was accounted a writ of grace, if the party to whom the writ was, had answered and denied the equity of the plaintiff's bill, the writ would be superseded, if the court saw no cause to the contrary. *Ibid.*

And perhaps now under the like circumstance a *superfedeas* would be issued. *Ibid.*

In order to obtain this writ, (which must be upon an *equitable* demand) a sum certain must be sworn to be due, and there must be ground for the suggestion that the party is going abroad. 3 *Bro. Ch. Rep.* 218. 370.

Where plaintiff has two demands on defendant, the one liquidated, the other not, the writ shall be marked for the former only. *Ibid.* 427.

Any one by surmise made to the Lord Chancellor may have this writ for the King; and if the writ be sued for the King, the party against whom it issued may come into this court, and (upon good cause shewn) obtain licence by letters patent, or by

\* Formerly this writ was sometimes directed to the party himself, sometimes to the sheriff or justices of the peace, or both; but now it is commonly directed to the sheriff only. *Fitz. N. Br.* 85. 1 *Px. Alm.* 159. *Cl. Tut.* 294.

the privy seal or signet (which are called a passport, or pass), any of which will excuse him from contempt. *Fitz. Na. Br.* 85.

It is an abuse of this process to break open doors, and take the party in bed; but yet the court would not order him, for this cause, to be set at liberty. *Prac. Reg.* 251.

The Master of the Rolls, upon a petition *ex parte*, granted a *ne exeat regno* against J. S. against whom the plaintiff *Brunker* had recovered a verdict at the sittings after this last term, upon strong affidavits that the said J. S. between this and *Michaelmas* term next, (before which time the plaintiff could have no judgment,) threatened to go beyond sea; and this writ was granted, though *no bill had been filed*, upon a precedent produced of the Lord *Cowper's* in 1709.

And now on motion to supersede this writ, and discharge the defendant, who had been taken into custody by virtue thereof, it was urged in support of the order at the Rolls, that the writ of *ne exeat regnum* was in the Register, and at common law, and though originally a state writ, yet now was made use of in aid of the subjects, to help them to their just debts; and being a writ at common law, it stood in no need of the authority or interposition of this court.

Lord Chancellor: In all my experience I never knew this writ of *ne exeat regno* granted or taken out, without a bill in equity first filed\*. It is true it was originally a state writ, but for some time (though not very long†) it has been made use of in aid of the subjects for the helping them to justice; but still, as custom has allowed this latter use to be made of it, it ought to go no farther than can be warranted by usage, which always has been to have a bill first filed. The precedent cited in Lord *Cowper's* time, was but a single one, and passed *sub silentio*. Neither does it appear that any use was made of this writ, or that the party defendant was ever taken upon it, so that this alone is not sufficient to overturn what has been the constant settled practice; and there is the greater reason that this writ should be taken out and granted with caution, as it deprives the subjects of their liberty; neither ought it to be made use of, where the demand is

\* Yet see the case of *Lloyd v. Carde*, *Prec. in Chanc.* 171. where a *ne exeat regno* was granted on affidavits, by the Master of the Rolls (Sir *John Trevor*) in the absence of Lord Keeper Wright, though there was no bill in court whereon to ground the writ; which report of the case is warranted by the Register's book.

† Towards the latter end of the reign of King James the First, this writ was thought proper to be granted, not only in respect of attempts prejudicial to the King and State, (in which case the Lord Chancellor granted it on application from any of the principal secretaries, without cause shewn, or upon such information as his Lordship should think of weight) but also in the case of interlopers in trade, great bankrupts in whose estates many subjects might be interested, in duels and other cases that did concern multitudes of the King's subjects. Lord Bacon's Ordinances, No. 89.

entirely at law; for there the plaintiff has bail\*, and he ought not to have double bail, both at law and in equity. 3 *P. Will.* 313. *Ex parte Brunker.*

Whereupon the writ was superseded, and the defendant discharged out of custody.

Writ of *ne exeat regno* discharged on paying into court the sum for which it was marked. 1 *Ves. jun.* 96.

A motion for a *ne exeat regno* upon a bill filed by one who had brought an action at law on a marriage contract, and recovered a verdict the last sittings for considerable damages, the defendant threatening that before the plaintiff could have final judgment, so as to take out execution, which was within four days in the next term, he would leave the kingdom.

Lord Chancellor, upon a former motion, ordered precedents to be searched, and it came on this day again, when *Kettleby*, serjeant, for the plaintiff, cited *Read v. Read. Chan. Cas.* 115. where several other cases are cited.

This bill is merely for a *ne exeat regno*, on which no decree can be made; and if I was to grant the motion, I must discharge it upon the defendant's putting in bail, which the plaintiff might have had when he brought his action, upon an application to a judge at his chambers; and an affidavit of special damages; though generally in such actions bail is not requisite; a *ne exeat regno* hath been granted only in a single instance, where a wife sued in the spiritual court for alimony, and the husband threatened to leave the kingdom, and it was done out of compassion to her, and to aid that court; there is no other instance of its being granted where there is not a mere equitable demand; his Lordship denied the motion. 2 *Atk.* 210. *anon.*

Upon a suit in the ecclesiastical court by wife for alimony, *Quere*, whether before the decree the court will grant a writ of *ne exeat regno* against husband. The Lord Chancellor asked for what sum he should mark the writ? which question, he said, seemed to be an insurmountable objection. 1 *Ves. jun.* 94.

On a motion to prevent the defendant's going out of the kingdom till he has put in his answer, the court ordered he should give security to abide by the decree that shall be made at the hearing. 2 *Atk.* 66.

Where a wife is executrix of a former husband, the court will grant a *ne exeat regno* against her alone, if her second husband should be gone out of the kingdom. 3 *Atk.* 409. *Vid.* also *Moor v. Meynell*, 8th May 1719. per Lord Macclesfield, cited.

*Ne exeat regno* upon affidavit of wife against husband refused. 1 *Ves. jun.* 49.

\* So held by the Lord King in the case of *Pakeman v. Cosby*, where, because the plaintiff had brought his action against the defendant, and had bail, the writ was discharged, last term after Trinity term 1730.



The court cannot grant a *ne exeat regno*, unless the plaintiff swears positively the defendant is indebted to him in a certain sum; but where a bill is brought for an *account only*, the plaintiff's swearing he believes the balance in his favour would amount to so much, will intitle him to a *ne exeat regno*. 3 *Atk.* 501. *Vide also* 1 *Atk.* 521, 522.

A *ne exeat regno* having been awarded against the defendant, J. S. (who was the now petitioner) became his surety to the sheriff; after answer put in, J. S. petitions to be discharged, but was denied, then the cause was heard, and 19,000 *l.* decreed against the defendant, and he committed for non-payment; and then J. S. petitions again to be discharged, because being a *manu-captor*, and the party in prison, there can be no danger of his going beyond sea.

Lord Keeper: If so, then his surety is in no danger; and would not discharge him. *Prec. in Chan.* 231.

On an application made to the court for a *ne exeat regno*, to stop the defendant from going to *Scotland*, it was objected, that since the Union, *Scotland* was part of this kingdom, and consequently that going to *Scotland* could not be construed *going out of the kingdom*, nor any breach of the condition of the security given on such writ.

Lord Chancellor: *Scotland* being out of the jurisdiction of this court, and consequently out of the reach of the process thereof, the defendant's going into *Scotland*, is equally mischievous to the suitor here, as if he went actually out of the kingdom; wherefore take a *ne exeat regno*; and though in this case, the party moving for the writ be also a *defendant*, yet, forasmuch as it is a matter of account, in which both parties are actors\*, and money being sworn due from the party, against whom the writ is prayed, to the other the motion is proper. *Sed vid. Hunter v. Macoray, Cas. temp. Talbot, 196. 1 P. Will. 263. Done's case, 2 Salk. 702. 3 Mod. 127. 169. 4 Mod. 179.*

*Note*; Where the party is to be restrained from going to *Scotland*, the condition must be, not to go out of the realm, or to *Scotland*; for if it be only, not to go out of the realm, the parties going to *Scotland* will not forfeit the bond or recognizance. *Ibid.* So anon. 3 *Atk.* 691.

On a motion to discharge writ of *ne exeat regno*, Lord Hardwicke Chancellor said,

It is a reason that generally prevails with me not to grant such writ, where one of the parties corresponding or dealing lives out of the kingdom, and the transactions were on the faith of having justice in the places where the parties respectively reside. And so it has been held, where one lived in *England*, and the other in one of the plantations or settlements belonging to *Eng-*

\* For which reason also, after a decree to account, and abatement of the suit by the defendant's death, his representative may revive. *Prec. in Chan.* 197.

land, which are governed by the same laws, except some few peculiar to the place. But in *Gibraltar* and *Minorca* the laws are not the same as here. In the former, the jurisdiction is not adapted to the determining property and accounts between merchants. In *Minorca*, the *Spanish* method of justice prevails, and therefore the reason does not hold where one of the parties resides in one of these places. But I do not rely on that so much as that there was no faith between the parties here, and having justice where they reside; for two of them lived at first at *Gibraltar*, afterwards one of them removed to *Minorca*.

Ordered, that upon the defendant giving security of 1000 *l.* by recognizance with two sureties, conditioned to abide and perform such decree and orders as the court shall make in this cause, the writ of *ne exeat regno* be discharged. *Robertson v. Wilkie, Ambler's Rep. 177. Vid. also Curry v. Mackenzie, 3d December 1753. Pearse v. Lisle, 19th Oct. 1749.*

So a writ of *ne exeat regno* shall not issue where there has been a payment of the debt in *Carolina*, in paper currency, which at that time was a legal payment, though an ordinance has been since made decrying it. 1 *Bro. Cha. Rep. 763.*

This writ hath been granted in Chancery to stop one from going beyond sea, to avoid a sentence in the ecclesiastical court. Sir *Jerome Smithson's* case, 2 *Vent. 345.*

A person having my money, and being about to go out of the kingdom, I may, by suit, stay him here till he hath given security to pay me. *Vid. stat. 5 Ric. 2. c. 2. Crompt. Jur. 64. Toth. 136.*

*Ne exeat regno* refused at the suit of an assignee of a bond, the original obligee being dead without representatives. 3 *Bro. Ch. Rep. 25.*

*Ne exeat regno* obtained by one inhabitant of *Antigua*, against another, upon a bond stated in the bill to be lost, discharged, on giving such security as the Master shall think proper to abide by the decree. *Ibid. 218.*

This writ refused against the agent of a surviving executor, having in his possession a bond which was the security for a residue to which plaintiff was entitled. 3 *Bro. Ch. Rep. 476.*

#### *The Form of the Writ Ne exeat Regno.*

GEORGE the Third, by the grace of God, of *Great Britain, France, and Ireland*, King, Defender of the faith, and so forth. To our Sheriff of *Middlesex*, greeting. Whereas it is represented to us in our court of Chancery, on the part of *A. B.* complainant, against *C. D.* defendant (amongst other things), that he the said defendant is greatly indebted to the said complainant,

plainant, and designs quickly to go into parts beyond the seas (as by oath made on that behalf appears) which tends to the great prejudice and damage of the said complainant: Therefore in order to prevent his injustice, we do hereby command you that you do without delay cause the said *C. D.* personally to come before you, and give sufficient bail or security in the sum of ——— that the said *C. D.* will not go, or attempt to go into parts beyond the seas, without leave of our said court; and in case the said *C. D.* shall refuse to give such bail or security, then you are to commit him the said *C. D.* to our next prison, there to be kept in safe custody, until he shall do it of his own accord; and when you shall have taken such security, you are forthwith to make and return a certificate thereof to us in our said court of Chancery, distinctly and plainly under your seal, together with this writ. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

Indorsed, By the Lord High Chancellor of Great Britain, at the instance of *A. B.*

*Of the Writ De Homine replegiando.*

**T**HIS writ is seldom used. It lies against one who clandestinely takes or conveys away, or keeps in his custody, another person against his will or consent. It is obtained on affidavit of the matter, and petition or motion to the Lord Chancellor: And it is sometimes brought where infants have been taken out of the custody of their guardians, &c.; and this court, it is said, may proceed herein by order without writ.

An infant was sent into *France* by his uncle, without the consent of the guardian; a *homine replegiando* was awarded, and the uncle ordered to send for the boy back again. 2 *Chan. Ca.* 237.

A wife cannot, either by herself, or *prochein amy*, bring this writ against her husband, for he has by law a right to the custody of her, and he may, if he thinks fit, confine her, but he must not imprison her; if he does, it will be good cause for her applying to the spiritual court for a divorce *propter sevitiam*. But the nature and proceedings in a writ *de homine replegiando* are such as cannot be maintained by a wife against her husband. Where several persons were appointed guardians of a young woman, and one of them got her (being nine years of age) married; the court granted this writ against the guardian and the husband, but as to the young woman the court made an order for the guardian and husband to produce her in court on a day certain. *Atwood v. Atwood*, *Gilb.* 149. *Fitz-Gib.* 106.

A writ



A writ *de homine replegiando* was moved for on behalf of two infants plaintiffs in a cause here, the defendants having got them out of the *prochein amy's* custody; the court said, though he that prayed the writ be *prochein amy*, yet perhaps he is not guardian. The defendant's counsel said he was guardian.

*Per Cur.* Let the plaintiff shew an order for his having the custody of them, and then the writ will be proper. If you will, you shall have an order *nisi*, &c. that they may give some account where the children are; the defendant then read an affidavit of one of the infants, whereby she swears she went to the defendant's house, with the knowledge and consent of the *prochein amy*.

Ordered, however, *nisi causa*, and said, perhaps at the day the court may think fit to proceed by order, without writ. *Prac. Reg.* 193.

A motion was made to discharge an order for superceding a writ *de homine replegiando*.

Lord Chancellor: The writ *de homine replegiando* is an original writ, and the party may sue it of right, and it is granted here on a motion or petition, without shewing cause; it is properly returnable in the courts of law, and may be there declared upon; and as it is remedial, the defendant, against whom it is sued, is obliged to assign some cause why he does not comply with the writ.

Therefore, after it is sued, I do not know that I can supercede it; and if the party who sues out the writ is not entitled to it, it must be pleaded to below; in this case it is the writ of the infant, and there is no suit about the infant here, and therefore the order made to supercede the writ must be discharged.

It might be otherwise, if the infant was in court, by being a party to the suit here.

If this writ is brought by an infant against his testamentary guardians, or by a villain against his lord, I think they may plead the special matter to the writ, and defend themselves at law.

Motion was granted. 1 *Atk.* 633.

*Note*; as to a *homine replegiando* and *habeas corpus*, (which last especially seems calculated only for the liberty of the subject,) if the parties brought up thereon will acquaint the court, that they are under no force, the court will let them go back to the places from whence they came; or if they appear to be under restraint, will set them at liberty, but not deliver them into the custody of another, nor in a proceeding of that nature, determine private rights, as the right of guardianship evidently is; for then the parties would be concluded from any appeal or writ of error thereon. Possibly in an action *de ejectione custodie*, the very right of guardianship might properly come in question; and so, it is

presumed, it was determined in the case of the *King v. Smith*, in *B. R. Trin. 7 & 8 Geo. 2. 3 P. Will. Cox's edit. 155. note [A]*.

*Of the Writ of Habeas Corpus.*

**T**HIS writ is obtained either upon motion or petition, but commonly on motion.

It is generally used to bring up prisoners to shew cause why they do not appear to or answer a bill, and in order to a party's appearing or answering and clearing his contempts, so that he may be discharged, or such order be made touching the matter as the court shall see cause. *Prac. Reg. 183.*

It is directed to the Warden of the *Fleet*, Marshal of the *King's Bench*, or Sheriff, or some other person where the party is in custody, to bring into this court the body of the person in custody at the return of the writ. *Prac. Reg. 183.*

It is served by delivering the writ itself under seal to the Warden, Keeper, or other person in whose custody the party is, and keeping a copy thereof: and if he obey it not, then issues an *alias*, and so a *pluries*, and afterwards an *alias pluries*; which if he yields no obedience to, nor makes some return thereupon in excuse, and which the court shall think sufficient, then, if he be an officer or minister of this court, and it be touching a cause depending here, the court will punish his contempt. And if it be for a matter at large, and the keeper of the prison obey not the writ, the party has his remedy by the *stat. 30 Car. 2. cap. 2.*

And a prisoner in a county gaol, or in *B. R.* being in contempt for not performing a decree of this court, may be brought up by this writ, and turned over to the *Fleet*, whence he is not to go till he has obeyed the decree. *2 Chanc. Rep. 151. 192.*

And where a prisoner is brought up by *habeas corpus*, and turned over to the *Fleet* prison, and there lies in contempt for not performing a decree of this court, the court, upon motion, will order a *sequestration* against him to sequester his personal estate, and the rents and profits of his real estate, until he shall have fully performed the decree, cleared his contempt, and the court take order to the contrary: and generally he must not only fully perform the decree, but pay all the costs relating to the *sequestration*, and the fees of the sequestrators, which are *6 s. 8 d.* a-day a-piece, so long as they remain in possession of the estate sequestered. And upon a personal estate being sequestered, and the decree remaining unperformed, the court will order it to be sold for the best price by the sequestrators, and the money arising thereby to be paid to the party, in part of what is decreed to him; and nevertheless the *sequestration* to be continued as to the sequestrators sequestering the rents  
and

and profits of the real estate, until the party has fully performed the decree, &c.

A prisoner in execution, brought up to this court by this writ, shall be remanded to the prison from whence he came.

But where a prisoner is in execution, you may move the court for an *habeas corpus cum causis* directed to the Sheriff; and the prisoner being brought up by such writ, the court orders him to be turned over to the *Fleet* prison, where he is to remain charged with such execution, and such other matters as he was before charged with in such other prison from whence he came, until he be not only fully discharged thereof, but also fully perform the order or decree of this court, whereby he was turned over to the *Fleet* prison.

*Habeas Corpus to the Warden of the Fleet.*

**G**EORGE the Third, by the grace of God, of *Great Britain, France, and Ireland*, King, defender of the faith, and so forth. To the Warden of our prison of the *Fleet*, or his deputy there, greeting. We command you that you do on the — day of — bring before us into our court of Chancery, wheresoever it shall then be, the body of — by whatsoever name, or addition of name, he is so known or called, who is detained in our said prison in your custody, to perform and abide such order as our said court shall make in this behalf; and hereof fail not; and bring this writ with you. Witness ourself at *Westminster*, the — day of —, in the — year of our reign.

*Of the Writ of Supplicavit.*

**T**HIS is a writ wholly appertaining to, and is made out by, the Prothonotary of Chancery; it is granted upon complaint and oath of the party, where any suitor of the court is abused, and stands in danger of life from another suitor. The contemner is taken into custody, and must give bail to the Sheriff; and if he moves to discharge the writ, the court hears both parties on affidavit, and continues it or not, as the cases appears. If they order the contemner to give security for his good behaviour, (for this writ is in nature of Lord Chancellor's warrant to apprehend a man for breach of the peace,) he must do it by recognizance before a Master, who must be in the commission of the peace; and he is to find sureties for good behaviour. If he beats or assaults the party a second time, the court will order the recognizance to be put in suit, and permit the party to recover



the penalty, for the recognizance is never to be sued but by leave of the court. But this proceeding very rarely happens.

The obtaining a *supplicavit* does not justify a wife's elopement from her husband; for it is a security taken for her on supposition they are to live together. 3 *Atk.* 550. *Head v. Head*.

Motion was made on the part of the husband to discharge an order for a *supplicavit* obtained on the part of the wife: it was made on affidavits, and said to be more proper for friends to interpose than a court of justice.

Lord Chancellor: I think so too; but when it does come before a court of justice, the court must go according to its rules. I never knew a writ of *supplicavit* or rules for surety of the peace in *B. R.* discharged, unless it has appeared to be a mere contrivance and falsity; and then in a particular instance or two (I believe) I have known them discharged: the reason is, that they are for prevention; if therefore the parties conclude they believe their life to be in danger, the court will not try these facts on affidavits on both sides in such a case. It must therefore be some strong case to shew that it was a mere contrivance or falsity that will be a ground to discharge a writ of *supplicavit*, or rule of surety of the peace; but here the facts are not at all denied, and I am to take care of the person who swears her life is in danger. I cannot discharge the order. 2 *Atk.* 579. *King v. King*.

So also upon a motion for a *supplicavit* at the suit of Mr. Grey, of Newcastle, Barrister at Law, upon articles filed on oath of assault and battery against Mr. Clavering, and that he went in fear of his life: the Lord Chancellor granted the writ, which commanded the party complained of to find sureties for the peace for a twelve-month, and ordered it to be indorsed for 4000 *l.* which the party and his sureties should be bound in.

Afterwards it was moved to discharge this order, or at least to lessen the same, Mr. Clavering being only tenant for life of his estate, and the statute was mentioned which gives costs in case of a groundless and vexatious complaint of this nature. 21 *Jac.* c. 8.

Lord Chancellor: I will not discharge the order, for then Mr. Clavering may kill the man; the court interposes in this case to prevent mischief and to save life, and it is an order of course; if the party complains of vexation, he comes too soon; let him stay till the year is out, and behave himself quietly all that time; if the sum be too great for his circumstances, there ought to be an affidavit to prove this inability. Wherefore deny the motion. 2 *P. Will.* 203. *Clavering's case*. *Vid.* also *Ambler's Rep.* 63.

*Note*; It seems the Master of the Rolls generally refuses to grant this writ, directing the party grieved to apply elsewhere, *viz.* to the justices of the peace. *Ibid.*

Sir

Sir *Richard Grosvenor*, upon filing articles in Chancery, obtained a *supplicavit* against Mrs. ———, who being taken upon the writ, was carried into *Newgate*, where she had continued near thirteen months, and now it was moved that she might be discharged, insisting, that it was the course of the King's Bench, if a *supplicavit* be granted against any one, and the party taken upon it continues in prison for a year and a day without any fresh threatening or misbehaviour having been offered by or on behalf of the party against whom the *supplicavit* was granted, that he ought to be discharged, and that it was so in the case of any commitments for any breach of the peace.

Lord Chancellor: Nothing can be more oppressive than an indefinite imprisonment; and it seems a reasonable practice in the King's Bench, if nothing has been offered either by threatening or other misbehaviour within a year and a day after the taking up of the party, by him or on his behalf, that he ought to be discharged. Accordingly the court was inclined to have granted the motion in the principal case: but the notice of motion being given by *A. B.* the solicitor for the woman that was committed, and he not being a solicitor admitted in Chancery, the court would not look upon this as notice; and the party undertaking to give another notice against the first day of the term, the motion was put off till then; at which time the said Mrs. ——— moved it again, and it was ordered that she should be discharged upon entering into a recognizance before a Master in 100 *l.* with two sureties in 50 *l.* each, to keep the peace; and the Master was directed to be easy and not strict as to the abilities of the sureties, the court having regard to her long imprisonment. 3 *P. Will.* 103. *ex parte* Sir *Richard Grosvenor*.

An order for a *supplicavit* was obtained on the 4th *August* 1754, against *Benjamin King*, Esq. on the complaint of his wife for having beat and used her ill. And he now moved to have it discharged; which was opposed by Mrs. *King*, who made an affidavit that her father having by his will left her his estate in *Antigua* (which was very large) to her separate use, and her husband insisting upon it that she had not such separate right, and was not entitled to the estate under her father's will, but under an old settlement, was the cause of quarrel between them originally; and that she had since filed a bill in this court to establish her separate right, to which her husband had put in her answer, insisting on her general right, and had also filed a cross bill; and expressing her great fears and apprehensions, if the *supplicavit* was discharged, her husband would compel her to give up her separate interest, or use her ill, and carry her to *Antigua*, where by means of his connections and estate she would have no protection of her person.

Lords

Lords Commissioners *Willes* and *Wilmot* (*Smithe* being absent) were of opinion, that this case was not within the general rule, which is to discharge the party complained of *at the end of one year*, if nothing new happens, and holds in all cases between persons where neither is under the influence of the other. But here the wife is under the authority of the husband, who has made a bad use of it, and the original cause of his ill usage still subsists; and therefore, although no fact or circumstance of violence or threats since the *supplicavit* granted was laid before the court, they refused to discharge the *supplicavit*, which they said ought not to have been done till the right was settled. *Vid. the King v. Lord Lee, 2 Lev. 128.* The court can only bind the husband to his good behaviour, *not remove the wife from him.*

The court took it up without hearing counsel for Mrs. King. *Ambler's Rep. 334. ex parte King.*

#### *Of the Writ of Injunction.*

**A**N injunction is a remedial writ, in nature of a prohibition, to obtain which, the party's right or injury, applying for the same, must be certified to the court; and all injunctions are commonly obtained by order of the court, upon motion, either upon matter confessed in the answer, or upon some matter of record, or some deed, writing or other evidence produced in court, whereby it appears there is some probability that the party ought to be discharged in equity. *2 Vern. 276. Pract. Reg. 197.*

Proper injunction cannot be granted, unless expressly prayed by the bill. *Ambler 70.*

When a bill is filed, if an injunction be prayed therein, it may be obtained at various stages of the cause, according to the circumstances of the case: if the bill be to stay execution upon an oppressive judgment, and the defendant does not put in his answer within the stated time allowed by the rules of the court, an injunction will issue of course; and when the answer comes in, the injunction can only be continued upon a sufficient ground appearing from the answer itself: but if an injunction be wanted to stay waste, or other injuries of an equally urgent nature, then upon the filing of the bill, and a proper case supported by *affidavits*, the court will grant an injunction immediately, to continue till the defendant has put in his answer, and till the court shall make some further order concerning it; and when the answer comes in, whether it shall then be continued or dissolved till the hearing of the cause, is determined by the court upon argument, drawn from considering the answer and affidavits together. *Note*; An injunction granted (on behalf of a creditor) to restrain payment of purchase-money to the heir. *3 Bro. Ch. Rep. 217.*



Also to restrain a partner from recovering partnership funds, the defendant being in contempt. *4 Bro. Ch. Rep. 441.*

But to enable us the better to understand the nature, operation, and effect of this writ, it will be convenient to consider, first, In what cases, and for what purposes injunctions are usually granted. Secondly, In what cases they have been denied. Thirdly, In what they are usually continued. Fourthly, In what they are or are not dissolved. Fifthly, What injunctions are irregular. Sixthly, In what cases they are made perpetual. Seventhly, What is or is not deemed a proper service of this writ, and herein of the breach of an injunction. And first, in what cases, and for what purposes injunctions are usually granted.

Injunctions then are usually granted, first,

*To stay Proceedings at Law.*

A Bill for this injunction usually suggests some rigorous proceedings at law, begun or threatened by the defendant; or that the complainant is not able, for some reasons shewn, to make his defence in a court of law, though he hath a good discharge here in equity; that the matter in dispute is a proper subject for the cognizance of a court of equity; or that he is deprived in a court of law, of some rightful advantage: or the bill suggests that he ought to be discharged from the suit in question, by reason that the debt is stale, and that the defendant hath slept long; or that debtor and creditor have been both dead long before action brought; or that the defendant cannot be found to be served with a *subpoena*. *Prac. Reg. 198. Toth. 36.*

If, on service of this injunction, the defendant hath not commenced his action, he cannot sue out process; if he hath, but not served the same, or in case he hath, but hath not delivered or filed any declaration, he cannot proceed. If there be a declaration, he may call for a plea, and for want thereof sign judgment. If the cause be at issue he may go to trial; if that hath been had, and verdict obtained, he may proceed to judgment, and affirm, if error hath been brought; but if judgment hath been executed, and debt and costs levied thereon, the sheriff cannot pay the same to the defendant, execution being stayed till answer, and further order. And that only touching the matters in question between the parties. *Note, In the Exchequer all proceedings are stayed, be the cause in what stage it may. 2 Kel. Rep. 17. pl. 15. On motion, Chan. Cas. 448.*

This injunction is granted of course, and if the defendant be guilty of a breach thereof, upon being served therewith, the court will commit him for contempt, as if there had been no clause therein of liberty for calling for a plea, &c. *Gilb. Chan. 194.*

Where

Where the plaintiff at law is abroad, and an injunction bill filed, and motion that service of the *subpœna* upon the attorney at law shall be good service, an affidavit of the truth of the equity of the bill must accompany the motion for the *subpœna*, in conformity to the practice in the court of Exchequer. 3 *Bro. Ch. Rep.* 12. See *Ibid.* 24.

This injunction is granted for bankrupt, on producing his certificate, for suing him after the same had been allowed and confirmed, and so it will on prosecution for equivocal perjury till hearing.

*A.* diverted a watercourse, which put *B.* to great expence in laying of sooths, &c. and the diversion being a nuisance to *B.* he brought an action, against which an injunction was granted upon a bill exhibited for that purpose; it being proved that *B.* did see the work when carrying on, and connived at it, without shewing the least disagreement, but rather approbation and consent. 2 *Eq. Caf. Ab.* 522. *pl.* 3.

If a person is sued at law for irregularly serving the process of this court, an injunction will be granted on motion and affidavit of the fact, to stay proceedings; for the irregularity is only punishable in this court. *Vern.* 269.

If the bill is brought to stay suits at law, you may have a *subpœna* before the same is filed by stat. 4 & 5 *Ann.* c. 16. and after the bill is filed, and the defendant hath appeared, you may, on filing an affidavit of the proceedings at law, and notice of motion, apply for injunction on the merits. But the bill ought to be filed before the return of the *subpœna*.

Unreasonable delay is a good cause for dissolving this injunction. Yet the court will sometimes, upon motion, revive injunction, although the same be dissolved, especially where equity appears evidently for the plaintiff, or his case is hard.

Where this injunction is granted until hearing, the court may then either dissolve the injunction, or if they see cause, order the same to be made perpetual.

After a verdict at law, money must be deposited, before injunction will be granted. *Chanc. Caf.* 447.

Injunction was granted by *King*, Chancellor, against suing the the acceptor of a bill of exchange, his acceptance having been declared void by the law of a foreign country; the same vacated there, and the party absolutely discharged. *Mos. Rep.* 1. 69. 12 *Vin. Abr.* 87. *pl.* 9. 2 *Eq. Caf. Abr.* 476. *pl.* 2. 524. *pl.* 7.

If plaintiff prays to stay proceedings at law upon bond, they shall not be stayed, unless he submits to be bound by order of court, not to bring any writ of error. *Vern.* 120.

The practice of a court of law, compelling a plaintiff on bond not to take execution beyond his real debt, does not oust the jurisdiction

jurisdiction of this court in awarding injunction; demurrer, on that ground, over-ruled. 3 *Bro. Ch. Rep.* 73.

Action at law on a bond, only reciting that the obligor was (on resignation of the obligee's *cestui que trust*) appointed to an office not restrained by injunction; but may be pleaded at law, in order to try whether consideration was corrupt. *Ibid.* 57.

Bond creditors of the ancestor obtain a decree for sale against the heir; the heir brought a bill to restrain other bond creditors from proceeding at law, and injunction granted. 1 *Ves.* 211.

Where a bill is taken *pro confesso*, by reason of the defendant's contempt in standing out all process; if the bill prays to stay the defendant's proceedings at law, the court will decree a perpetual one. *Prac. Reg.* 197.

The defendant in this court having brought an action at law against the plaintiff, and obtained judgment thereon, the plaintiff filed his bill for an injunction to stay proceedings and execution; the defendant in order to prevent the obtaining the injunction put in his answer immediately; the plaintiff took exceptions to the answer, and the question was, whether the plaintiff could move to refer the exceptions *instantly*, or whether the defendant had not eight days, whether he would submit, or argue the exceptions; but the court held that the practice (in injunction causes only) was that the plaintiff might move to refer the exceptions immediately, and so procure the report of the insufficiency of the answer, for otherwise the defendant had eight days to consider them, and he might take out execution in the mean time, or before the plaintiff could obtain an injunction, and so take advantage of the insufficiency of his own answer. *Per Lord Appleby* in the case of *Edmund v. —* 17th Feb. 1772, at *Westminster*.

Where an injunction is obtained with respect to a suit at law which is at issue, or wherein a declaration is declared, it commonly gives leave to go to trial, but stays execution; but where upon the face of the answer, there appeared a strong presumption of equity in favour of the complainant, the court continued injunction to stay trial at law; as, where *A.* made a grant of *post fines* to *B.* with covenant that he had power to grant, but *B.* was not to pay rent till peaceable possession. *B.* brings an action at law on the covenant of *A.*'s title or power to grant; *A.* prays to be relieved. The matter being confessed by the answer to be as set forth by the complainant; the court continued the injunction to stay trial; so where by the answer it appears to be matter of account that is in question, and the demand is very uncertain, the court will commonly grant or continue an injunction. *Com. Att.* 441. *Prac. Reg.* 201.

If goods are taken, or money levied, or paid in execution, and in the sheriff's hands, this process will stay them there; so where



where money was levied, and in the attorney's hands, who would have retained for money owing to him by his client; yet the money being in dispute in this Court between the parties at law, the court ordered him to bring it in here. *Com. Att.* 441.

Where there is a verdict at law, and the defendant exhibits his bill for relief here, the money must be deposited here before an injunction will be granted, except in some cases where special matter of equity appears by the defendant's answer, or some former decree, or such like circumstance in his favour. *Prac. Reg.* 202.

The court would not continue an injunction upon a bill to be relieved against the penalty of a bond prosecuted at law, except either the money sworn by the answer to be due was brought into court, or the complainant gave judgment at law, and a release of errors; and if he had not been thought of sufficient ability, the court would have suffered the plaintiff at law to have proceeded there, so far as the return of a second *scire facias*, to make the bail liable; so where a surety in a bond was prosecuted at law on a counter-bond for money he had paid, and for other matters upon contract and account: the defendant files his bill here, and has an injunction; but the court ordered the money sworn to be due upon the original bond to be paid the defendant in this court in a month, subject to the direction of the court upon hearing, else the injunction to stand dissolved. *Ibid.* 204.

Where the defendant by his answer swears a certain sum of money to be due to him, the court often will not grant or continue an injunction, unless the plaintiff bring the money into court, yet time will be given to bring it in, as the greatness of the sum or the distance of the party may require, and proceedings will be ordered to stay in the mean time; but if the defendant be in contempt, the court will grant it without bringing any money into court, though there may have been proceedings at law, and so if matter be confessed sufficient for a total relief, the court will do the same. 1 *Px. Alm.* 37. 2 *Toth.* 37.

In an interpleading bill, *Query*, whether the money shall not be brought into court before the motion for an injunction; though the practice seems to have been that it has been held time enough, if brought in upon shewing cause against the motion to dissolve the injunction. 3 *Bro. Ch. Rep.* 36.

*Note*; An affidavit is not ordinarily to be made use of against an answer; but where an executor by his answer swore a certain sum to be due, the court upon affidavit of strangers to the suit, continued the injunction without ordering the money to be brought into court, because there appeared reason to doubt whether the money was due, and the executor is not privy to the transactions of the testator: and so it was said it would have been, if  
by

by writing, or any other matter produced to the court, it might seem doubtful whether the money were unpaid. 2 *Toth.* 37. *Prac. Reg.* 204, 205.

Injunction bill charging fraud in obtaining ver'ct: affidavits contradicting the answer read in support of the injunction on the merits. 1 *Ves. Jun.* 427.

The defendant being considerably indebted to the complainant's testator, disbursed money about his funeral, at the executor's request, for which he brought an action at law against the executor, who brought his bill here, praying an account, and stay of proceedings at law, and obtained an injunction; which the defendant prayed might be dissolved, at least as to what related to the monies so disbursed: the court said, it was to be supposed he designed to have it allowed in the account when he laid his money out (and so he should) and therefore the injunction was continued. *Prac. Reg.* 205.

Administrator of a sailor orders *A.* to receive money due to the sailor; he does, and puts the money so received by him into a goldsmith's hands: *A.* will appears; of which, and the probate thereof the executor gives *A.* notice, before the money was paid to the administrator: *A.* refuses to pay the money to the executor, the executor sues him at law: *A.* brings his bill; the executor swears the notice given by him to *A.* The court ordered the money to be brought into court, or the injunction to be dissolved. So where *A.* was by obligation bound to *B.* for payment of 100 *l.* and was also indebted to him in 100 *l.* more for rent; an action was brought at law on the bond, and judgment obtained on the bail bond: the complainant prays to be relieved against the bond judgment, &c. and obtained an injunction: the defendant by his answer admits the 100 *l.* on the bond to be satisfied; the court ordered the defendant at law should give a release of errors, and the injunction to stand as to that, but to be dissolved as to the rent. *Prac. Reg.* 206.

If money be recovered at law, and the defendant brings his bill to be relieved here, on condition the plaintiff pay the money and costs recovered at law into court here, subject to order on hearing, this court will commonly order an injunction, and will in the mean while stay execution, and give some time for paying in the money; with this addition, that the defendant here be at liberty to affirm his judgment, if a writ of error be pending; or if there be none, the complainant to give a release of errors: so when the defendant here had judgment at law, the complainant had brought a writ of error, and then brings his bill here, and has an injunction, the defendant being in no contempt, but having taken a *dedimus* prays leave to affirm his judgment: it was granted him; but he to proceed no farther till further order. *Ibid.* 207, 208.

Legatees sue in the ecclesiastical court, that the executors might prove the will, and pay their legacies; the executors exhibit a bill here to prove the will, (it being of lands as well as personal estate,) and to stay proceedings in the ecclesiastical court, and offered by their bill to pay the legatees if there should be assets: the court ordered an injunction, and that it should continue, the executors giving security here to perform the bill, and speeding the cause. *Prac. Reg.* 208.

If a mortgagor brings a bill here to redeem, it is at law accounted a breach of covenant for quiet enjoyment; but if an action of covenant be in such case brought, this court will grant an injunction. *Per Curiam. Prac. Reg.* 211.

The defendant's plea being allowed, he moved to dissolve the plaintiff's injunction: the court said, when the plea is allowed, there is *ordinarily* an end of the injunction, but not always; the defendant had pleaded only what the plaintiff had admitted and set forth, *viz.* an award; and though the defendant and referees have denied all practice, and sworn that the defendant was heard, and the award duly obtained, yet it was said that practice and unfair proceedings are often found in awards; the counsel for the defendants said the other side ought to shew some equity confessed or allowed in the answer; but the court answered, that though awards are favoured here because they tend to settle peace among parties, and although there be notice of this motion, yet an injunction is not to be absolutely dissolved upon the allowance of the plea, but only *nisi*, because there may be some equity shewn to continue it: the court, however, ordered the money awarded to be brought into court by the first seal, or the injunction to stand dissolved without further motion; the plaintiff to enter up his judgment, (having at law obtained a verdict, and tax his costs, which were also to be brought in; but to stay execution, though the court seemed willing to have had him forbear entering judgment. *Prac. Reg.* 211, 212.

Upon a motion for an injunction to stay proceedings on a bond, the court said, that after a plea put in there can be no motion for an injunction; but at the instance of the plaintiff, it was ordered that the plea should come on the next day to be argued among the exceptions, with leave, that if the plea should be over-ruled, then the plaintiff might move at the same time for an injunction. 3 *P. Will.* 396.

The plaintiff had recovered judgment in the *petty bag*; after which the defendant brought a bill, and had stopped the plaintiff two or three years by an injunction; so that the plaintiff in the judgment could not regularly sue out execution without a *scire facias*: wherefore it was moved that the plaintiff at law might, under these circumstances, sue out execution without a *scire facias*, and not suffer by the act of the court.

*Sed*



*Sed per curiam* : I cannot alter the course of court, but must take care to preserve it; and it being above a year and a day after the judgment, let the plaintiff sue out his *scire facias*. 3 *P. Will.* 36. Q. Whether in this case the plaintiff could not have taken out execution, and continued it by *vice comes non misit breva* agreeably to what was said by the court of B. R. in the case of *Booth and Booth*, *Salk.* 322. *Ibid.* note (C).

An injunction upon an attachment, or a *dedimus*, or upon the defendant's praying time, does not extend to stay proceedings in the spiritual court, as it does to stay proceedings at law; so that whenever proceedings in the spiritual court are to be stayed, it is to be moved specially. *Quere*, whether the same rule does not hold with regard to proceedings in the Court of Admiralty? 1 *P. Will.* 301.

If one brings an action at law against another, and a bill is brought for relief either against a penalty, or to stay proceedings at law; in that case the plaintiff may move for an injunction, for it is never done by petition; he may move either upon an attachment, or praying a *dedimus*, or further time to answer; for it being suggested in the bill, that the suit is against conscience, if the defendant be in contempt for not answering, or prays time to answer, it is contrary to conscience to proceed at law in the mean time, and therefore an injunction is granted of course; as this is the common and usual injunction, so it only stays execution touching the matters in question, and there is always a clause giving liberty to call for a plea to proceed to trial, and for want of it to obtain judgment; but execution is stayed till answer or further order.

There is also an injunction to stay trial, and this is never granted but upon notice, as where one files his bill, and it appears to the court, that the plaintiff's equity must arise out of the defendant's answer; in this case the court will, and often does grant an injunction, and that the same may extend to stay trial. *For. Rom.* 149.

Where there is a bill filed against executor, and a decree *quod computet*, and for creditors to come in, if a creditor brings an action, an injunction shall issue to stay trial as well as execution; but if the action be brought before the bill, and he chooses to discontinue, he shall be allowed to prove his costs at law, in addition to his debt. 3 *Bro. Ch. Rep.* 23.

Injunction to stay execution, and also to stay trial not granted on one motion. 3 *Bro. Cha. Rep.* 87.

Defendant having recovered a verdict at law against plaintiff, the plaintiff filed a bill for an injunction, and the defendant being in the *East Indies*, an injunction was of course obtained for want of an answer. It was now moved on the part of the defendant, that the plaintiff should, by a certain

day, bring the money recovered into court, otherwise the injunction should be dissolved. This was objected to as a new application; but the Lord Chancellor thinking it reasonable, granted the motion. 2 Bro. Cha. Rep. 14, 182. 1 Bro. 452.

Under the forfeiting act in *America*, the estates of loyalists were to be sold for payment of debts; this was held to be no ground for an injunction to restrain an action brought in this country on a bond executed in *America*; so where the representatives of a mortgagee, after foreclosure, sell the mortgaged premises; and the amount not being sufficient to pay the debt, they bring an action on the bond; the defendant at law filed his bill, praying an injunction, and that the bond might be delivered up to be cancelled; insisting that the mortgagee, having foreclosed the equity of redemption, and taken the pledge, had made his election, and relinquished his right to a personal remedy. 2 Bro. 11.

The Lord Chancellor said, as it was a new case, he would grant the injunction, on condition of the plaintiff's bringing the money into court; but his opinion was, that the defendant had a right to proceed at law; and the plaintiff refusing to bring the money into court, the injunction was therefore refused. *Ibid.* 125, 126, 127.

The defendant *B.* being abroad, brought an ejectment to recover the premises in question, as devisee of *A. B.* against his heir at law; the plaintiff, the heir, filed a bill, charging fraud in the manner of obtaining the will, by devisee and other defendants in the cause; an injunction was moved for, to stay proceedings in the ejectment till the coming in of the defendant's answer, but the affidavit then charging fraud upon the defendants generally, and not particularizing the defendant *B.* who was abroad, the Lord Chancellor ordered it to stand over till the next seal.

Accordingly it was moved again, upon an affidavit, charging, 1st, that the defendant *B.* was in the house of the testatrix at the time when the will was made, and was active in preventing the plaintiff from seeing the testatrix; 2d, that he gave instructions for drawing the will different from those given by the testatrix. And the case of *Farrier v. Sir Watkin Leves*, 5th Feb. 1789, was cited, in which this matter was much canvassed, and where the affidavit drawn in the general form had been approved of.

The Lord Chancellor was of opinion, that when the defendant was here, and could put in his answer easily, the general form was sufficient; but when the defendant was *abroad*, there should be special ground to shew that the discovery from him was material. 2 Bro. 640.

Defendant

Defendant in equity brought an action against plaintiff, and bail was put in below, and afterwards plaintiff filed a bill in Chancery against the defendant, and obtained an injunction to stay proceedings at law till answer. The defendant took an assignment of the bail bond, and was proceeding upon it, when the plaintiff moved for an injunction to stay proceedings on the *bail bond*. Lord *Hardwicke* Chancellor took a distinction, that where bail is put in above, an injunction to stay proceedings against the *principal* extends to proceedings against the *bail*, because you cannot, in case of bail above, proceed against the bail, till you have against the principal; but the case is otherwise where bail is only put in below, for there the plaintiff has his election to proceed on the bail bond; but, however, his Lordship, after some deliberation, granted the injunction till answer, or further order. *Ambler's Rep.* 32.

It has been held that a decree at the suit of creditors against an executor, for an account of the personal estate of the testator, will bind other creditors, and if they sue at law, the court will award an injunction; so where there is a decree for the payment of debts, &c. on the suit of trustees, though the parties have not proceeded under that decree, the court will restrain, by injunction, a creditor from proceeding at law against the executor. *Douglas v. Claydon*, Lord *Cambden*, 21st Feb. 1767. *Vid.* also *Martin v. Martin*, 1 *Ves.* 211. 1 *Brown* 183.

Where there was a prosecution at law for perjury in this court, the court granted an injunction, the cause here not being yet heard; so if a privileged person of this court is sued elsewhere at law, he may stay the suit by injunction; for he should be sued in the Petty Bag Office, and not elsewhere. *Toth.* 114. *Prac. Reg.* 216.

So where the plaintiff went over the defendant's ground, into his house, to serve him with a *subpœna* of this court, for which the defendant brought an action at law *quare damnum et clausum fregit*; and upon motion here, the action of trespass was stayed by injunction. *Pr. H. Ch.* 168.

Upon shewing cause why an injunction should not be dissolved, the case appeared to be thus: That the plaintiff and defendant were partners in the Chapter Coffee-house, and upon entering into the partnership it had been agreed that the business should be conducted entirely by the plaintiff, but that the defendant should have the use of a particular room in the house whenever he thought proper. And in order to enforce this agreement, a bond was entered into by the plaintiff to the defendant in the penalty of 500 *l.*; after some time, the defendant demanded the use of the room, and being refused, brought an action for the penalty of the bond. Plaintiff filed his bill, praying an issue to try *quantum damnisfactus*, and an injunction in the mean while. He



obtained an injunction till answer or further order; and the answer being now come in, the only question, in respect to continuing the injunction till the hearing, was, whether the penalty of the bond was merely intended as a security for the enjoyment of the room, or in the nature of assessed damages between the parties.

On the part of the defendant it was contended that the injunction ought to be dissolved, and the defendant permitted to have his remedy upon the bond: it was impossible a jury, upon an issue of *quantum damnificatus*, could assess any other damages, than those already assessed by the parties themselves; and a case in the House of Lords was referred to, where 5 *l.* per acre penalty for plowing up meadow land was reserved in a lease, and the Court of Chancery having relieved against the penalty, and directed an issue to try the actual damage, the decree was reversed. *Rolfe v. Paterfon*, 6 *Brown's Parl. Caf.* 470. Also 2 *Atk.* 190. *Roy v. The Duke of Beaufort*, *Chan. Caf.* 183.

The Lord Chancellor said, the only question was, whether this was to be considered as a penalty, or as assessed damages. The rule, that where a penalty is inserted, merely to secure the enjoyment of a collateral object, the enjoyment of the object is considered as the principal intent of the deed, and the penalty only as occasional, and therefore only to secure the damage really incurred, is too strongly established in equity to be shaken: this case is to be considered in that light; and the injunction must be continued till the hearing. *Sloman v. Walter*, 1 *Bro.* 418, 419. *Vid.* also *Hardy v. Martin*, determined by the Lord Commissioners 7th May 1783 (cited). *Errington v. Aynesty*, 2 *Bro.* 341.

Injunction granted (on bringing money into court) to restrain an action against the auctioneer for the deposit, although the estate sold was represented as freehold, with leasehold adjoining, and turned out to be almost all leasehold; and although there had been great delay in making out the plaintiff's title. 4 *Bro. Ch. Rep.* 494.

Lessees or their assignees filing bill in equity not to have an injunction against proceedings at law, on ejectments under the stat. of 4 *Geo. 2. c.* 28., unless they do, or shall, within 40 days next after full and perfect answers shall be filed by the lessors of the plaintiffs in such ejectments, bring into court and lodge with the proper officer such sums of money as such lessors shall in their answers, swear to be due and in arrear, over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessors on good security, subject to the decree of the court.

Secondly, Injunctions are granted.

*To stay Waste.*

**W**ASTE, *vastum*, is a spoil or destruction in houses, gardens, trees, or other corporeal hereditaments, to the disherison of him that hath the reversion or remainder in fee simple or fee tail. *Co. Lit.* 53.

And waste is either *voluntary*, which is a crime of commission, as by pulling down a house; or it is *permissive*, which is a matter of omission only, as by suffering it to fall for want of necessary reparations: whatever does a lasting damage to the freehold or inheritance is *waste*; therefore removing wainscot, floors, or other things once fixed to the freehold of the house is waste. Waste may also be committed in ponds, dove-houses, warrens, and the like, by so reducing the number of the creatures therein, that there will not be sufficient for the reversioner when he comes to the inheritance. Timber also is part of the inheritance: such are oak, ash, elm, in all places; and in some particular countries, by local customs, where other trees are generally used for building, they are there considered as timber; and to cut down such trees, or top them, or do any other act whereby the timber may decay, is waste.

The conversion of land from one species to another is waste; to convert wood, meadow, or pasture, into arable; to turn arable, meadow, or pasture, into woodland; or to turn woodland or arable into meadow or pasture, are all of them waste. To open the land to search for mines of metal, coal, &c. is waste; for that is a detriment to the inheritance. These three are the general heads of waste, *viz.* in houses, in timber, and in land; though whatever tends to the destruction or depreciating the value of an inheritance, is considered by the law as waste. 2 *Black. Com.* 281, 282.

This court will grant an injunction to stay waste, so soon as the same is begun, or to prevent the same, if reasonable ground be shewn to apprehend the committing thereof in \* land, woods or houses; by felling timber, or other trees; destroying † buildings, or for or against committing any other kind of waste whatsoever; and such injunction will be granted on ‡ motion, certificate of bill being filed, and affidavit of § facts being produced; against a jointress, tenant by the curtesy; or any other

\* As by plowing ancient meadow or pasture, *Chanc. Rep.* 14, 106. 116. *Toth.* 143, 144.

† *Salk.* 161. *Pl.* 14. 2 *Vern.* 738. *Pl.* 647. *Gilb. Eq. Rep.* 127.

‡ In the long vacation, when the court does not sit, and consequently no motion can be made, the Lord Chancellor, upon petition, certificate of bill filed, and affidavit of facts, will grant injunction to stay waste complained of.

§ Which must satisfy the court how the party derives his title to the estate in question, in the cause, and also that some spoil or waste is done or threatened.

particular tenant; so by patron against incumbent for committing waste on the glebe; so on behalf of an infant *en ventre sa mere*: and likewise for reversioner or remainder-man in fee, against tenant for life in \* possession, though he be not punishable for † waste, at the common law, this being a special mischief; and besides though such tenant for life is not punishable during the continuance of the remainder, yet after the determination of that estate he is. So likewise, the court will grant this injunction against a ‡ lessee, that is, against those who hold mediately or immediately under him who prays the writ, and those only; and where the party's right, who makes the application, appears apparent on the record, the court will grant the same before answer filed. *Toth.* 83. *Chan. Rep.* 242. *Toth.* 144. *Hard.* 96. *Barnard. Chan. Rep.* 99. *Toth.* 188. *Ves. Rep.* 454. 476.

In order to reconcile a seeming contradiction in what hath been laid down above, respecting tenant for life not being punishable for committing waste, *viz. that he is, and is not punishable*; turns upon the difference, whether he be dispensable of waste, only from the nature of his estate, or by an express grant thereof; for the first mentioned tenant for life is restrained from committing any kind of waste; whereas the latter may cut down timber, (*Chan. Rep.* 242.) plow, (*Vern.*) open new mines (*Salk.* 161. *Pl.* 14.): but he will be restrained from pulling down houses, or defacing seats (*Chan. Cas.* 32. *Salk.* 161.); because this is an abuse of the power, derogatory to the grant, and contrary to the intent of the privilege of “without impeachment of waste. *Salk.* 161. But if the defendant shews that he has an estate, “without impeachment of waste,” injunction is ordinarily denied or dissolved, in case the same be applied for, or granted, *for staying waste only*.

If the bill is *to stay waste*, you may have a subpoena before the same be filed; and after the defendant hath appeared, affidavits of waste may be filed, and upon notice of motion, injunction will be granted if there be merits. *Stat.* 4 and 5 *Ann. c.* 16.

Lord *Bernard* was tenant for life, without impeachment of waste, and this bill was brought against him by those in remainder, for an injunction to stay his committing of waste, and by the proofs in the cause it appeared, that he had almost defaced the mansion house, by pulling down great part, and was going on entirely to ruin it; whereupon the court not only granted an injunction against him to stay his committing further waste, but also ordered a commission to issue to six commissioners, where-

\* *Salk.* 161. *Pl.* 14. 2 *Vern.* 738. *Pl.* 647. *Prec. in Chanc.* 454. *Gilb. Eq. Rep.* 127.

† 2 *Roll. Abr.* 337. *Mof.* 554. *Toth.* 61. *Cary's Rep.* 26. 36. *Vern.* 23. *Co. Litt.* 54. 2 *Instit.* 301. 5 *Rep.* 76.

‡ *Chanc. Cas.* 450. But not easily against mortgagee, *Id. ib.*



of he to have notice, and to appoint three on his part, or, in default thereof, the six commissioners to be named *ex parte*, to take a view, and to make a report, of the waste committed; and that he should be obliged to rebuild, and put it in the same plight and condition it was at the time of his entry thereon; and it was said, that the like injunctions had been frequently granted in this court; and that the clauses of *without impeachment of waste* never were extended to allow the very destruction of the estate itself, but only to excuse from permissive waste; and therefore such a clause would not give leave to fell and cut down the trees which were for the ornament or shelter of a house, much less to destroy or demolish the house; and so it was ruled in my Lord Nottingham's time. 2 Chan. Cas. 32. Prec. in Chanc. 454. 1 Eq. Abr. 400. Pl. 1. S. C. and 399 (n). 2 Eq. Abr. 758. p. 7, 8. 22 Vin. Abr. 523. Pl. 11. 2 Vern. 738. S. C. 1 Salk. 161. S. C. Gilb. Eq. Rep. 127. Gilb. Chanc. 193. S. C. 1 Wms. 528. 3 Wms. 267. 3 Atk. 215. 1 Ves. 264. 546. 1 Brown's Rep. 167. and (n).

A. tenant for years, remainder to B. for life, remainder to C. in fee; A. is doing waste; B. though he cannot bring waste, as not having the inheritance, yet he is entitled to an injunction: but if the waste be of a trivial nature, and *à fortiori*, if it be meliorating waste, as by building on the premises, the court will not enjoin; nor if the reversioner or remainder-man in fee be not made a party, who possibly may approve of the waste. See 1 Rol. Abr. Roswell's case 377. See 1 Inst. 53. By the Lord King, Molyneux v. Powell, Pasch. 1730. 3 P. Will. 268. note (F).

If tenant for life, remainder for life, remainder to his first and other sons; if the first tenant for life subject to waste, commits waste, the second tenant for life may bring a bill to stay waste, which cannot be demurred to: so if there be tenant for life subject to waste, remainder to B. for life *sans waste*, B. cannot by licence or otherwise during A's life consent to waste without being liable to be restrained; for the not being liable to waste is a privilege annexed to the estate when it comes into possession; and there is no way of the second tenant for life committing waste, but by the first tenant for life surrendering the estate to him, which will do. 1 Ves. 400.

A. tenant for life, remainder to B. in tail as to one moiety, remainder to C. an infant in tail, and other remainders over; there was timber upon the estate greatly decayed. B. the remainder-man brought a bill praying that the decayed timber might be cut down and sold, and the money divided between him and the infant; tenant for life insisted upon part of the money, but, *per curiam*:

The tenant for life is not entitled to any share of the money arising from the sale of the timber; but as he has a right to botes and repairs, sufficient must be left him for that purpose, and satisfaction made to him for the damage done on the ground: with regard to the timber *plainly decayed*, it is for the benefit of persons entitled to the inheritance to have it cut down, or it may be of no value, and it shall be done with the approbation of the Master; and trees though decayed, if for the defence and shelter of the house, shall not be cut down. 3 *Will.* 268.

*A.* tenant for life, remainder to his first and other sons in tail, remainder to *B.* in the same manner, remainder to *C.* in tail. *A.* cuts down timber without *C.*'s consent; *A.* and *B.* having no sons born, the right to the timber belongs to those who at the time of its being severed were seised of the first estate of inheritance, and the property vested in them. 2 *Will.* 240.

But if tenant for ninety-nine years, if he so long live, *sans waste*, remainder to trustees to preserve contingent remainders to his first and other sons in tail, remainder to *A.* in fee; the tenant for ninety-nine years *having no son*, agreed with *A.* to divide the profits of the timber. The tenant for ninety-nine years had afterwards a son *B.* who brought a bill to have the money refunded; and it was decreed by Lord Hardwicke, Chancellor, that the agreement between tenant for years and *A.* to cut the timber was a fraud on the first son. 2 *Ves.* 525.

Plaintiff being a trustee of *A. B.*'s estate, for the benefit of creditors, and having sold part to the defendant, with a particular exception and reservation of the waste of the manor, and all mines in the said wastes, by virtue of a *proviso* in the deeds of conveyance, brought his bill to prevent the defendant from committing waste, by opening mines; it was objected, that this bill was not properly brought, as this is not a matter for the determination of a court of equity, that it is a mere legal right, and a legal estate, and consequently there was no occasion to come into this court.

Lord Chancellor: The plaintiff may certainly come into this court, to restrain the defendant from opening the mines, even if he has only threatened to do it; nor is it necessary the plaintiff should have waited till the waste is actually committed, where the intention appears; and the defendant even by his answer, insists on his right to do it. There are a great many cases where such bills have been allowed; and indeed, if the defendant by his answer had disclaimed any right, there would have been no grounds for such a suit. If a bill is brought by an owner of a reversion against a tenant for life, and no proof appears by any waste, yet if tenant for life insists upon his right, and it is proved that he has none, this court will grant an injunction. 2 *Atk.* 152, 153, 154.

This court will grant an injunction at the suit of a ground landlord, to stay waste in an under lessee, who holds by lease from the original lessee; so a remainder-man in fee may have an injunction to stay waste in the first tenant for life, notwithstanding an intermediate estate for life. 3 *Atk.* 723.

If a mortgagee cuts down timber, and does not apply the money arising from the sale, in sinking the principal and interest, the mortgagor may have an injunction to stay waste; so where the mortgagor commits waste, the court will grant the mortgagee an injunction; for they will not suffer the mortgagor to prejudice the incumbrance. 3 *Atk.* 723.

Bill by patron against rector to stay waste in digging stones, &c. on the glebe, other than what is necessary for repairing and improving the rectory; and for an account of what had been dug and sold, to be paid to plaintiff, or such person as is entitled thereto. Demurrer as to the account, and also as to the staying the digging of stones, other than, &c. and by way of answer set out, that the quarries, were opened before *Ibid.*

Lord Chancellor: The parson has a fee simple qualified and under restrictions, in right of the church; but he cannot do every thing that a private owner of an inheritance can. He cannot commit waste, nor open mines, but may work those already opened. Even a bishop cannot. *Talbot*, Bishop of *Durham* applied to parliament to enable him to open mines, but rejected. Parsons may fell timber, or dig stones to repair; and they have been indulged in felling such timber or stone, where the money has been applied in repairs. Injunction has been granted even against bishops, to restrain from felling large quantities of timber, at the instance of the Attorney General, on the behalf of the crown, the patron of bishoprics.

If the demurrer had only gone to the account, it had been good, for the patron cannot have any profit from the living; but it is too general as to staying the digging of stones, &c. And though the answer sets out, that the quarry was open before, yet the demurrer cannot have aid from the answer, but it is bad as to that part; and being so, it must be over-ruled as to the whole, for a demurrer cannot be good in part, and bad in part, as a plea may. *Ambler's Rep.* 176.

Motion for an injunction to stay waste, upon an affidavit, generally, that the plaintiff was entitled to the fee simple of the estate, and that waste was committed. Refused by the Lord Chancellor, for a particular title must be set out; upon this being done, and the only opposition by a similar affidavit to the first, on the part of the defendant, the motion was granted. *Bro. Cha. Rep.* 57.

So on a motion to stay a jointress tenant in tail after possibility, &c. from committing waste, the court held that she being a jointress



a jointress within the 11 H. 7. ought to be restrained, being part of the inheritance, which by the statute she is restrained from aliening. But where a jointress who had a covenant that her jointure should be of such yearly value, which fell short, though her estate was not without impeachment of waste, yet the court would not prohibit her committing waste, so far as to make up the defect of her jointure. *Abr. Eq. 221. Cooke v. Winford. Ibid. 400.*

So where the plaintiff let a farm to the defendant at an annual rent, and part of it being pasture land, the defendant covenanted among other things, not to break up or plow any part of it, and that if he did plow any part of it, he would pay at the rate of 20 s. *per annum* for every acre; and on motion for an injunction to stay waste in plowing: and *per Cur.* the parties themselves have here agreed the damage, and have set a price for plowing, and therefore will not grant any injunction; and declared, that if the defendant was against plaintiff paying 20 s. *per acre* for plowing, they would not relieve him. 2 *Vern. 119.*

Injunction to stay waste refused, where the plaintiff and the defendant in possession were tenants in common: but granted on affidavit of defendant's insolvency. 3 *Bro. Ch. Rep. 621.*

Injunction from farther digging a ditch: but the court would not order it to be filled up till after answer. 1 *Ves. Junr. 140.*

Injunction cause stood over at hearing for want of parties: injunction not dissolved, nor receiver appointed on motion without special case of waste: but plaintiff compelled to speed the cause. *Ibid. 401.*

Thirdly, injunctions are granted

*To yield up, quit, or continue Possession of Lands.*

**T**HIS species of injunction is a judicial writ, and subsequent to a decree, being in nature of a writ of execution, or *hab. fac. poss.* But sometimes, in ordinary cases, injunctions are granted, fourthly,

*To quiet Possession before hearing.*

**A**FFIDAVIT verifying allegations in bill was admitted to be read on moving for such an injunction; but this sort of injunction, it is said, hinders not defendants at law from making leases, taking distresses; and it may be dissolved

solved on cause shewn, as other injunctions. *Bunb. Rep.* 35. *Pl.* 64.

As for instance ; where a party hath been in possession three years, and another disturbs him in such possession, this \* court will grant an injunction to quiet him in it. On this ground the law patentees had injunction to restrain defendants from proceeding in printing any law books ; and the company of stationers an injunction to stay books in the custom house, and hinder the sale of statute books printed beyond sea. So this court will grant an injunction against a publication piratically taken from another, but not against a fair abridgement, and will also stay defendant from disturbing plaintiff in quiet possession of a pew. *2 Chanc. Caf.* 7. *1 Brown*, 451.

Where defendant was in possession, at the time of exhibiting the bill, plaintiff afterwards entered ; injunction was granted against him to avoid possession ; and in another case defendant prayed, he might have injunction, or that the bill might be dismissed ; and the court held the application reasonable, and that he was well entitled to one or the other. *Cary's Rep.* 51. 63. 140.

Sometimes, pending a suit, the court will order a party possession by injunction, or that rents, not already paid, shall be stayed in tenant's hands till hearing ; and sometimes will order both : at other times will order a † receiver, who (upon giving good security) shall take rents and profits, and pay them into court, or account for them, when the court shall require him so to do.

Fifthly, this court will grant an injunction

\* *Toth.* 37. *Cary's Rep.* 66. *1 Vern.* 156. *Vid.* also 3 *Bulst.* 34. *Litt. Rep.* 166. *Roll. Rep.* 190.

† The receiver to enter into such a recognizance as the court directs, to secure his accounting for, and paying such rents into court.

### *Against continuing a Nuisance.*

AND before answer filed, for a plain apparent nuisance, on certificate, affidavit, and notice to the adverse party, his clerk in court, or solicitor ; but in case of a special nuisance the court expects the party to shew his right, and how he is particularly aggrieved, before this injunction will be granted.

The plaintiff's house being so near a church that the five o'clock bell rung in the morning disturbed her, the plaintiff came to an agreement with the churchwardens and inhabitants at a vestry, that the plaintiff would erect a cupola and clock at the church, and in consideration thereof the five o'clock bell should not

not be rung in the morning; but the defendant being since chosen churchwarden, a new order of vestry was obtained for the ringing again of the five o'clock bell, which occasioned the plaintiff to bring her bill to enjoin the ringing of this bell; and on motion the Lord Chancellor granted an injunction to stay the ringing till the hearing: afterwards the cause coming on to an hearing, the court decreed this to be a good agreement and binding in equity, and thereupon decreed an injunction against the ringing of this five o'clock bell accordingly. 2 *P. Will.* 267, 268.

A motion was made for liberty to re-erect a nuisance, and to be quieted in the enjoyment of it until the hearing of the cause.

Lord Chancellor said, he had known several of these motions made, but hardly ever knew it granted by giving express liberty to re-erect a thing pulled down. Suppose a house was built on, what was insisted on to be the highway, and that was pulled down, the court most certainly would not give liberty to re-erect that building. He therefore would not grant the injunction; but the utmost he could do, was to put it in a speedy method of trial.

The general rule is, you must establish your right at law, before you bring a bill of peace. 2 *Ves.* 193, 194.

Sixthly, Injunctions are granted

*To prevent Multiplicity of Suits.*

**T**HIS species of injunction is granted where many suits are depending, and are likely to happen from one and the same thing; in which case the court will interpose and grant an injunction: they will direct a proper issue to try the whole, and all the rest shall be bound by the verdict; or else there might be twenty actions and as many verdicts, where one proper direction or issue ends the whole, and it is only directing one issue to prevent many more. *Gilb. Chan.* 195. For more upon this subject, *vid.* vol. 1. p. 104. title Bills of Peace.

Seventhly, Injunctions are granted

*In Ejectment Causes.*

**T**HIS species of injunction is never denied where the party agrees to give judgment in ejectment, to prevent trial, to give a release of errors, and to consent not to bring a writ of error: and to this it is sometimes added, to deliver possession as the court upon hearing shall direct: these terms are directed in order



order to save the trouble, delay, and expence of a trial at law: *Gilb. Chan.* 195.

After injunction dissolved upon the merits, motion to stay trial of ejectment till full answer to the amended bill refused with costs. 1 *Ves.* Jun. 30.

Eighthly, Injunctions are granted

*To stay Buildings, and the stopping up of ancient Lights.*

**W**HICH injunction shall go to stay the building complained of, till answer or further order. Upon a motion to continue injunction to stay building, Lord *Hardwicke* said, whoever comes into this court on such a right, must found it either on defendant's building so as to stop ancient lights, for which he has a prescription (notwithstanding that he must lay a particular prescription) or else upon some agreement proved on reasonable presumption thereof. So where a bill was brought (one object of which was) to restrain defendants, lessees of the plaintiff, from erecting any further buildings, they having begun such as would interrupt the prospect from the plaintiff's house, and would be disagreeable objects, the defendants put in a general demurrer for want of equity; and in support of the demurrer it was argued there was no covenant in the lease that they should not build: that this is not a bill to stay waste, but only brought upon an apprehension of being injured, where the party will not stay till he is so, and then apply to a jury. In cases where there are covenants to expend all the dung upon the estate, or to cultivate in a particular manner; on a breach, the Lord Chancellor has not thought it a case for application here, but that it only was in damages. *Ibid.* 193.

Master of the Rolls: This court will not interpose where the matter is merely in damages; but here a nobleman, having a seat, has granted privileges to the defendants, which they are using in such a way, as interferes with his pleasurable enjoyment of his property. The Duke of *Beaufort* obtained an injunction against persons who were building near him, to prevent their building so high as to obstruct the light of his windows in the house, now *Gloucester House*: the demurrer was over-ruled. 2 *Brown*, 64. *Earl Bathurst v. Burden*.

Upon a motion for an order to pull down certain blinds so put up as to obstruct plaintiff's houses, it was argued, that the court might interpose instantly by interlocutory order to prevent that, for which damages will lie at law, but which are not an adequate remedy. The court will order a building, which is erecting, not to be further proceeded in, though not directed to be pulled down,

down, as that might do irreparable mischief to one party, if on final hearing the rights should be withheld. On the other side it was said the houses lay in *Leadenhall Street*, and the custom of *London* allows the building higher, and raising new houses on ancient foundations higher, though it does obstruct another light. *Yelv.* 115. 1 *Bulst.* 115. *Godb.* 183. and *Calthrop*, 41.; in which last case the custom was held good, as it might arise on a lawful commencement in cities.

Lord Chancellor said, he never knew an order to pull down any thing on motion; it is sometimes, though rarely, done on a decree; the court will indeed sometimes, on motion, order the going on with buildings to be stopped; but it being agreed, that this must be pleaded, the sooner the better, and to grant an injunction in the mean time, and then this scaffold should be removed. Let the parties therefore, by consent, proceed to a trial at law *in case* by the plaintiff, for stopping up his lights; and the defendants to pull down the scaffolds, or boards already raised, and be enjoined from building or erecting, whereby any of the plaintiff's lights may be obstructed, till after trial had. 2 *Ves.* 543.

Ninthly, Injunctions are granted

#### *On Patents.*

**T**O stay the printing and selling almanacks, bibles, and other works, in behalf of patentees and owners of such books; but the patent under seal is ever produced in open court. *Gillb. Chan.* 194.

A caveat having been entered against putting the great seal to a patent for an invention which bore date 12th *August* 1784, the Lord Chancellor, upon hearing the petition, took some time to consider of it, and did not make his order for discharging the caveat until the 27th *August*. The patentee did not enrol his specification until the 18th *December* 1784, supposing the patent bore date the day the final order was made; but he was then told the four months limited by the act of parliament for the enrolment of specifications had elapsed.

The patentee now petitioned the Lord Chancellor to alter the patent by making it bear date the 27th of *August*, instead of the 12th; but

Lord Chancellor said, that, although he was perfectly satisfied that the patentee was well entitled to his patent, and that his case was a very hard one; yet he could not make such an use of his power, as keeper of the great seal, as to alter a patent in any degree upon an application of this sort. That perhaps upon the petitioner's applying for a new patent, the officers might under these

these circumstances, be induced to remit their fees; but that he would give no relief upon the present petition. 1 *Brown*, 578.

Whatever inherent copyright might have been supposed to subsist by the common law, the statute 8 *Anne* c. 19, hath now declared that the author and his assigns shall have the sole liberty of printing and reprinting the works for the term of fourteen years, and no longer; and hath also protected that property by additional penalties and forfeitures: directing farther, that if, at the end of that term, the author himself be living, the right shall then return to him for another term of the same duration: and a similar privilege is extended to the inventors of prints and engravings, for the term of twenty-eight years, by the statutes 8 *Geo.* 2. c. 13. and 7 *Geo.* 3. c. 38.; all which parliamentary protections appear to have been suggested by the exception in the statute of monopolies 21 *Jac.* 1. c. 3. which allows a royal patent of privilege to be granted for fourteen years to any inventor of a new manufacture for the sole working or the making of the same; by virtue whereof it is held that a temporary property therein becomes vested in the king's patentee. 1 *Vern.* 62.

Note also, It was determined in the case of *Millar v. Taylor* in *B. R.* *Pasch.* 9 *Geo.* 3. 1769, that an exclusive copyright in authors subsisted by the common law; but afterwards, in the case of *Donaldson v. Beckett*, before the House of Lords, which was finally determined 22d February 1774, it was held that no copyright subsists in authors, after the expiration of the several terms created by the statute of Queen Anne. *Vid.* also for more upon this subject, 2 *Eq. Cas. Abridg.* 523. 2 *Atk. Rep.* 95. 143. 144. 342. 4 *Vin. Abr.* 278. *Pl.* 3. 2 *Black. Com.* 407. 1 *Brown*, 451. 2 *Brown*, 80.

*In what Cases Injunctions have been denied.*

ACCORDING to the usual course of practice in this court, no injunction can be obtained on an amended, supplemental, or original bill, between the same parties, where the first bill to stay proceedings at law was dissolved on the merits; for a bill may be in this court originally on equitable circumstances for an injunction; and on filing it, if answer, plea, or demurrer, comes not in within a time limited by the course of the court which is very short, (and there is hardly a cause in which it is not necessary to pray further time,) if the defendant stands in contempt, or prays time beyond the ordinary time, an injunction may be until answer; but though there is liberty to do this, and that often tends to great delay (which cannot be avoided), yet if once an injunction is dissolved on the merits upon the answer put in, whether by decree of the court on dismissing the bill,



bill, or on motion upon the coming in of the answer on the argument of the merits as they appear on the oath only of the defendant; if the plaintiff amends that bill, or files a supplemental bill with new matter, which is part of the old cause, he cannot apply as of course for a new injunction to stay proceedings until answer or further order (though perhaps it may be done upon special motion); and orders so obtained have been always discharged, when applied for, as irregular, and as obtained by surprize, the ground of that course of the court being, that the plaintiff ought to state his case on filing the original bill as to the merits of his equity, the court not giving him liberty to split and retail out his equity to apply upon another head for another injunction after his former is dissolved. After an answer and demurrer, bill was amended, and then injunction granted. See *Gilb.* 183. 2 *Ves.* 21.

Injunction hath been refused, while plea or demurrer was depending; for, until it be argued, it appears not whether the court hath cognizance of the cause. 3 *P. Will.* 396.

Exceptions to an answer without a report of its insufficiency, not good cause for obtaining an injunction, because often filed for delay; and the court will not presume the exceptions valid, till so ascertained by a Master's report: also, according to the usual practice of this court, an injunction is never to be granted before bill filed, unless in particular cases, where there would be a manifest failure of justice, deprivation of right, by the act of God, or of the party himself, and in the cases of committing waste, or restraining suits at law, and such special instances which are always exceptions to all general rules; but that they are such must be shewn to the court, in order to induce them to dispense with the ordinary rules and practice of the court; thus where pending a suit brought by a mortgagee to foreclose, an advowson appendant to a mortgaged man became void, and though he had no right to present, brought his *quare impedit*, but the court granted an injunction on the defendant's application, tho' he had no bill filed: so also, where a cause abated by the death of the defendant's testator, who, being served with a letter missive, and a copy of the bill to revive, would not appear, *being in privilege\**, upon motion, injunction was granted, though the cause was not revived. *Vid.* 4 *Inst.* 92. 1 *Vern.* 156. *Eq. Cas. Abr.* 285. pl. 6. 4 *Vin. Abr.* 550. pl. 10. 2 *Vern.* 401. *Eq. Cas. Abr.* 285. pl. 5. *ib.* 285. pl. 6.

This court will not grant an injunction unless a right appears: as upon a motion for an injunction to stop the sale of *English* Bibles printed beyond sea, the Lord Keeper declared, he could not grant an injunction, but where a man has a plain right to be quieted in it; and he directed a trial, wherein the patentees were

\* Note; All privilege from suits is taken away by stat. 10 Geo. 3. c. 50.

to be plaintiffs, and the defendants to admit they had sold twelve Bibles; and when the trial was over to come back again: so also, where the University of Oxford had a patent for printing of Bibles, the King's printers, being entitled under a patent, brought a bill to restrain them, though the court was of opinion, that the University could not print more than for their own use; yet it being a right determinable at law, would not grant an injunction, but directed a trial: so again, where the *East India* Company prayed an injunction to restrain the defendant from trading to the *East Indies*, though the court was far from thinking the Company's patent void, which had been confirmed by so many kings; yet the validity of the patent being triable at law, an injunction could not be granted, till it was determined there, and a trial was accordingly directed; the court has also refused to grant an injunction against a will bequeathing personal estate, and a pretence of fraud therein. 1 *Vern.* 276. 120. 275. 127. 2 *Chan. Caf.* 165. 2 *P. Will.* 287.

A bill by the principal debtor to stay proceedings in an action at law, being dismissed, the bail brought another bill for the like injunction.

Lord Chancellor, upon shewing cause against dissolving the injunction, said, that where the equity was determined as to the principal by dismissal of his bill either on hearing or want of prosecution; he never knew an instance of a new bill by the bail to the action taking up that equity, which would be most dangerous to admit. The common method of proceeding is, where the principal brings a bill against an action at law, an injunction being granted, it is a motion of course, notwithstanding the injunction, to proceed to make the bail liable. If the doctrine now insisted upon is true, it would be necessary to make the bail party to that bill; for it is now said, that the bail is not bound in that suit. If so, and if other persons are allowed to set up the equity again, and overhaul the whole matter, injunctions to stay proceedings at law would never be at an end, and the plaintiff at law might never come at his right. But notwithstanding this, if there is a collusion, or a charge in the bill of collusion, between the principal (defendant at law) and the plaintiff at law, and the injunction is dissolved by collusion in order to charge the bail at law, the bail in that case might take up the equity; but it would be then a new equity; for fraud and collusion affect every thing, and would give a right to resort to the original equity; but in this case there is no pretence for it, therefore dissolve the injunction absolutely. 2 *Ves.* 630, 631.

When an injunction has been discharged upon the merits, or for want of the plaintiff's shewing cause why the injunction should not be dissolved on the defendant's order *nisi*, he cannot, by amending his bill, and the defendant's obtaining a *dedimus* to take his answer to an amended bill, move for an injunction; for

if he could, he might amend his bill *toties quoties*, and by that means keep up the injunction against the defendant *in infinitum*; but, if on coming in of the defendant's answer to the amended bill, he thinks there are sufficient grounds arising out of the answer to support an injunction, he may move for it upon the merits; and an injunction granted on a *dedimus*, to take an answer to an amended bill, is contrary to the rule and practice of the court. 3 *Alk.* 695.

The court refused to grant an injunction whilst a demurrer was depending; for until the demurrer be argued, it does not appear whether the court has cognizance of the cause or not; till when, no order ought to be made: so that it was even doubted, whether it could in such case be granted for any special cause; and no injunction for stay of suit at law shall be granted, revived, dissolved, or stayed upon a petition, nor any injunction of any other nature pass by order upon petition, without notice and a copy of the petition first had by, or given to the other side, and the petition filed with the register, and the order entered. *Prac. Reg.* 201. *Ord. Chanc.* 151.

An order had been obtained by the plaintiff for an injunction for want of an answer, as a motion of course. It was now moved to set aside that order for irregularity, on the ground of the bill having been referred for impertinence before the time for answering was out; and contended that referring the bill for impertinence stayed, of course, all proceedings in the cause; and a case of *Harris v. Montgomery*, *Hil.* 1783, was cited for that purpose.

The Lord Chancellor said, that the rule was not general, that referring the bill for impertinence stayed all proceedings; but was only this, that upon a bill's being referred before the time for answering is out, the plaintiff should not, at the expiration of the time, move for an injunction, as of course, for want of an answer, but should be in the same situation as if the time for answering was not out; in which case he must move it upon notice and affidavit of circumstances. If this case therefore, had rested on the single ground aforesaid, the plaintiff would not have obtained the injunction without giving notice of motion; but it afterwards appeared that the defendant's clerk in court had taken upon himself to waive taking advantage of the irregularity by agreeing that the plaintiff should take an injunction as for want of an answer. 1 *Brown*, 574.

On motion for an injunction to stay lessee from working a coal-pit irregularly, and, as was said, detrimentally to the plaintiff the lessor;

Lord *Hardwicke* said, the court grants injunction to stay working of a colliery with great reluctance, from the great inconvenience it occasions; and never will do it, but where there is a



breach of an exprefs covenant, or an uncontroverted mischief. The prefent cafe did not come within either of thofe reafons, and therefore the injunction was refufed. *Ambler's Rep.* 209.

Injunction to reftain an action againft an auctioneer for the deposit, refufed, where there had been great delay on the part of the vendor. 4 *Bro. Ch. Rep.* 470.

*In what Cafes Injunctions are ufually continued.*

**I**NJUNCTIONS may be continued on exceptions to an answer; but the plaintiff's alledging to the court, on the defendant's answer coming in, that the fame was infufficient, in order to prevent injunction being diffolved, is not fufficient ground to induce the court to continue the injunction. 2 *Vef.* 453.

In fome particular cafes the court will continue the injunction after the defendant hath fully answered the equity of the bill; fo an injunction hath been continued until fome of the defendants put in their answer, by reafon that thofe defendants that lived in *Ireland*, had been ferved with procefs, and had not put in their answer; and that bail was given in the action; but an injunction hath been refufed to be continued till the hearing, when fome of the defendants lived in *Ireland*. *Barnard's Chanc. Rep.* 354.

It is faid, that exceptions alone are not a fufficient caufe for granting an injunction, becaufe they are often put in for delay; but there muft be a report alfo of the answer's infufficiency; but where an injunction is already granted, it will be continued on exceptions; and where exceptions came in but the night before the motion, the court has refufed to diffolve the injunction: if a report is not procured upon exceptions in a reasonable time, or if the answer be reported fufficient, &c. the injunction will on motion be ordered to be diffolved *nifi caufa*, &c. *Prac. Reg.* 209.

An injunction granted on the merits, or on fpecial caufe of equity, commonly continues till the hearing, unlefs the plaintiff delays his fuit; fo where there is an appearance of equity with the complainant, or that his cafe feems very hard, the court will not eafily diffolve the injunction; and if an injunction be diffolved, yet if there be caufe, it may be revived on motion: fo an injunction may be extended to ftay trial, if the plaintiff makes an affidavit, that he believes a difcovery will arife out of the defendant's answer, fo as to enable him to make a good defence at law: this is a fpecial motion, and due notice muft be given of it in the ufual manner. *Prac. Reg.* 209, 210.

Injunction granted on amended bill, on fpecial motion without affidavit, after injunction diffolved on the original bill; the amendments being material to raife an equity, and the allegations new. 3 *Bro. Ch. Rep.* 425.

*In what Cases Injunctions are, and in what not dissolved.*

**A**LL injunctions are dissolved upon motion in open court, and if the same be obtained on an attachment for want of appearance, or answer; so soon as the contempt \* is cleared, and answer filed †, instructions must be given to counsel to move to dissolve ‡ injunction for the purpose of giving the adverse party an opportunity to shew cause why it should not; this order being obtained, the same must be drawn up, entered, and served on the plaintiff's clerk in court, and it (the order) takes notice of the defendant's having fully answered the bill, and thereby denied the whole equity thereof; and being regularly served, the plaintiff must shew cause at this day, and the defendant's counsel where there is no probability of shewing cause, may move to make the order absolute, unless cause shewn sitting the court.

The plaintiff must shew cause, either upon the merits, or upon filing of exceptions; if upon the merits, the court may put what terms they please upon him, as bringing in the money, or paying it to the party, subject to the order of the court, or giving judgment with a release of errors, and consenting to bring no writ of error, or to give security to abide the order on the hearing, or the like; and to this order is generally added a clause, that the plaintiff shall speed his cause to an hearing. *Gilb. Chan.* 196.

If the plaintiff shews cause upon exceptions § filed, he must procure a report in four days of the insufficiency of the answer; and if the motion is made at either of the last seals after *Hilary* or *Trinity* terms, the court sometimes puts the plaintiff upon opening the exceptions, that the court may judge whether they are material or not; and the reason of this is, because the defendant (if the answer should be reported sufficient) hath no opportunity to move the court till the seal before the next term, and is thereby greatly delayed: if the court thinks the exceptions material and necessary, they will grant the motion; if otherwise they will deny it, as the case appears; and there is or at least should be, always added this clause to the order (especially when the order is made at the last seal), that the plaintiff shall procure

\* That is, the costs paid (which are ten shillings), or tendered to plaintiff's clerk in court.

† Note; To dissolve injunction, upon coming in of the answer, unless cause, is a motion of course, an affidavit of serving the order *nisi* being filed.

‡ Note; If a plea is ordered to stand for answer, motion must be to dissolve *nisi*, not absolutely. *Mof. Rep.* 198. pl. 111.

§ Note: If the Master reports the answer insufficient, the injunction will be continued till the defendant answers the exceptions.

the report in four days, or in default thereof, his injunction to stand dissolved without further motion; whereas it is not so in open term or at any of the seals save the last; and this clause being added, the court need not hear the exceptions opened, which oftentimes take up a considerable portion of time. *Gilb. Chan.* 197.

If the report be not procured in a reasonable time, or if the answer be sufficient, it is a motion of course to dissolve the injunction:—and whereas of late it hath been doubted, whether, as the plaintiff undertakes to procure the report of the insufficiency of the answer, which being found against him, he shall afterwards shew cause on the merits; there seems no foundation for this objection, and it would be the hardest case in the world if it should be so; for there are many instances where the plaintiff's counsel may think the answer not full, and yet may be mistaken; and, notwithstanding this, the plaintiff may have good cause upon the merits for the continuance of his injunction and he ought to have liberty to do it; but this must be done on notice given to the adverse party; he cannot do it when the defendant's counsel come to move to dissolve the injunction, on the answer being reported sufficient; because as this is a motion, of course the party is not prepared to speak to the merits, but he may, and ought to have liberty to do it upon notice given. *Ibid.* 197, 198.

If the plaintiff who hath an injunction dies pending the suit, in strictness, the whole proceedings are abated, and the injunction with them; but even in this case, the party shall not take out execution without special leave of the court; he must move the court for the plaintiff to revive his suit within a limited time, or the injunction to stand dissolved; and as this is never denied, so if the suit is not revived, the party takes out execution. There are some instances where a plaintiff may move to revive his injunction; but as that rarely happens, so it is rarely granted, especially where the injunction hath been before dissolved; but where a bill is dismissed, the injunction, and every thing else, is gone, and execution may be taken out the next day; and this was never yet doubted. *Gilb. Chan.* 198.

When a plea or demurrer is argued by counsel, and allowed, there is generally, though not always, an end of the injunction; for it may happen that some equity may be shewn for continuing it, arising out of the defendant's answer, put in with such plea or demurrer; and upon a plea or demurrer being allowed, or on coming in of the answer, the court will not absolutely dissolve the injunction on the first motion, though upon affidavit of notice, but only *nisi*; so, if Master's report is not procured in a reasonable time, after exceptions filed, or if the answer is reported sufficient, injunction will be dissolved *nisi*, though sometimes absolutely on the first motion.



Injunction for want of an answer was dissolved, because not served till several months after answer come in ; so on cross bills if when the first is answered, the second is not answered in eight days, injunction will be dissolved on motion ; but the court will not dissolve an injunction continued on exceptions, if they have not been filed a reasonable time before motion made. *2 Kel. Rep. 43. Pl. 29.*

Delay of proceedings here for a long time is good cause for dissolving an injunction to stay proceedings at law : so the court ordered money sworn due on an award to be brought into court, or the injunction to be dissolved ; for by the award it is become *res judicata. Com. Sol. 24. Prac. Reg. 209.*

The causes which operate to the continuance of an injunction, or, in other words, why the same should not be dissolved, are various. It has been already observed, that, after the answer is come in, if the defendant's counsel alledge that he has answered, and denied the whole equity of the bill (his contempts, if any, being cleared), the court, upon such allegation, will order the injunction to stand dissolved *nisi*, at a short day ; and if at that day no cause be shewn, then, upon motion, and affidavit of serving the order, it will be made absolute ; but if the contempt be not cleared (that is, the costs not paid), or if the answer be not filed and all equity denied, or if the exceptions are put in, and the answer reported insufficient, either of these will be allowed good cause against dissolving the injunction. *Ibid. 199.*

So if there be two defendants, the court will not ordinarily dissolve the injunction till both have answered ; also when the plaintiff has equity on his side, or his case seems hard, the court will not easily dissolve the injunction ; and

*Note ;* Injunctions are not usually dissolved at the last seal of the term, nor ever but upon motion of the adverse party. *Ibid. 200. Toth. 36.*

#### *Of irregular Injunctions.*

**I**F an injunction be irregularly obtained, it is a motion of course to refer the same to one of the Masters of the court ; and if he reports the injunction to have been irregularly issued, such report may be excepted to ; the exceptions must be filed, and five pounds deposited with the register, whereupon they are argued in court and decided upon accordingly : but,

If no exceptions are filed, the court, upon the Master's report will dissolve the injunction, and sometimes will commit the clerk in court to the Fleet, for taking out such injunction, and also make

make him pay all costs, and sometimes the damages the injured party hath sustained, by reason of such irregular injunction.

If an injunction issues irregular, the defendant does not, by applying for time to answer, waive the redress he is intitled to in consequence of such irregularity: for an application for time to answer may be made, whether there is an injunction or not, in order to avoid process of contempt; but perhaps the irregularity may be submitted to and waived by the party affirming it by his own act; or any act founded on the injunction, affirming that a regular injunction subsisted, would ordinarily be construed a waiver of the irregularity. 2 *Ves.* 20. 23.

The jurisdiction of this court, as to injunctions, is a most useful one, without which the benefit of an equity against proceedings at law cannot be had, yet may they be made use of as handles to delay the obtaining justice at law; and therefore it is the duty of this court to prevent the abuse of that jurisdiction as much as possible.

#### *Of perpetual Injunctions.*

**W**HERE the case requires it, the court will grant a perpetual injunction, and many are the occasions upon which it will exercise this branch of its jurisdiction.

This court will grant a perpetual injunction against proving a will in the spiritual court, the same having been found on a trial at law to be no will; so it will, on a bill taken *pro confesso*, by reason of the defendant's contempt, in standing out all process, if the plaintiff, by his bill prays injunction to quiet possession, or to stay proceedings at law. *Chan. Caf.* 80.

A perpetual injunction will be granted to quiet a man in the possession of his estate; and this is generally either upon a plain equitable title, or where one, two, or more verdicts have been obtained in his favour; and this injunction is to quiet the plaintiff and his heirs for ever, and all claiming by, from, or under him; and this is very often granted, and in many instances the justice of the court calls for it; though it must be observed, that Lord Chancellor *Cowper* in *Lord Bath* and *Sherwin's* case, ruled that he could not stay trial\*, if there were never so many verdicts in ejectment, where the title was merely at law; but *quere* the reason of his resolution, because if the plaintiff at law be vexatious, and that appears to the court, as it will after many trials, it seems that the plaintiff at law proceeds with an ill conscience, and therefore will be enjoined. *Prec. Chan.* 261.

\* Note, This decree was appealed from to the House of Lords, and it was reversed, the injunction being granted. 1 *Brown's Parl. Caf.* 266.

So it was held by the Court of Exchequer\*, that a perpetual injunction had never been granted upon one trial at law, and decree upon it; and the court is never bound by one trial at law, if the parties desire more; and further, that a bill for a perpetual injunction could never be brought after a nonsuit; but, after several nonsuits at law, if the matter appears to be vexatious, as where the party suffers himself to be purposely nonsuited, the court will grant a perpetual injunction.

A determination by the court for performance of trusts has been held a ground for a bill for a perpetual injunction against the party setting up a legal estate to overturn that decree; so if a trust estate be devised to be sold, and on a bill brought against the trustees to sell, the heir contests the will after two trials, the court will grant a perpetual injunction. 2 *Ves.* 90. 1 *P. Will.* 673.

Acceptance of a bill of exchange becoming void by the law of a foreign country; and the same having been vacated by the sentence of a competent court there, and the party discharged therefrom, a perpetual injunction was granted against all proceedings here. *Mos.* 1. 69. 12 *Vin. Abr.* 87. *Pl.* 9. 2 *Eq. Cas. Abr.* 476. *Pl.* 2. 524. *Pl.* 7.

A perpetual injunction was decreed with costs against the defendant. The plaintiff died, and his representative filed a bill to hold on the injunction. Lord Bathurst said, there was no occasion for that; for the injunction would remain notwithstanding the death of the party. See 2 *Ves.* Jun. 316.

*Note,* That an injunction to restrain defendant from negotiating a bill of exchange given for goods not delivered, was issued on certificate of bill being filed, and ordered that the subpoena be served at the same time with the injunction. 4 *Bro. Cha. Rep.* 476.

[*Note; For more upon this subject vid.* 1 Vol. 104. tit. *Bills of Peace.*]

\* In the case of the Duke of Portland v. Sir James Lowther, 15th May 1771. Vid. also Leighton v. Leighton, 1 *P. Will.* 673. where it is said by Lord Chancellor Parker, that it is certainly an inconvenience in the law, that there should be no end of trials in ejectment, and that one trial in a real action (which perhaps may be a trial at bar by *vis prius*) should be final, when at the same time twenty trials in ejectment and at the bar in Westminster Hall will not be conclusive.



*Of the Service of this Writ; and herein of the Breach of an Injunction.*

**T**HE writ of injunction is served by shewing the original under seal\*, and delivering a true copy † thereof to the party himself. Service must be personal on the party himself.

If the party or his attorney proceed at law, after service of an injunction to stay proceedings, on an affidavit of the service thereof being sworn and filed, an attachment issues against the party for breach of the said injunction: and if he be arrested on the said attachment, and enters his appearance with the Register on the said attachment, interrogatories are to be filed and exhibited against him, to which he must answer upon oath; and if he denies the service, the adverse party may examine one or more witnesses to prove the service; which, if it be proved upon him, the court will commit him to the *Fleet* prison, and make him pay all costs and charges before he be discharged. For more of the ancient rule of the court in proceedings for a breach of an injunction, *vid. Gilb. Chanc. 199.*

But the modern and usual way, where an injunction is served and the party is in contempt ‡ for breach thereof, is to give notice of motion to the adverse clerk in court, that the party may be committed to the *Fleet* prison for breach of the said injunction; and an affidavit being made of the service of the said injunction, the motion is made accordingly: and if the adverse party is not prepared to defend such motion, the court usually gives him a day to shew cause against such motion; and then upon hearing the affidavits on both sides, the court decides whether the party is guilty of the breach of the injunction or not; and if he be, makes an order for his commitment to the *Fleet* prison, from whence he cannot be discharged until he has paid the adverse party his costs; and sometimes until he has made restitution to him for the damages he may have sustained for breach of the said injunction.

A bill was brought to stay execution on a judgment obtained at law, and on service of the *subpoena*, and for want of an appearance, the plaintiff had an injunction, but *it was not sealed*; and in the vacation the defendant takes the plaintiff in execution and during the vacation appears and puts in his answer: and

A motion was made, that the defendant might stand committed for the contempt of the court, in proceeding after an in-

\* Note; If the original injunction be shewn at the time of service, it need not be delivered in order to compare the same. 2 Chanc. Caf. 203.

† But it hath been held, that leaving it with the attorney, or solicitor's clerk or servant, is good service. Prac. Reg. 197.

‡ Though an injunction is irregularly obtained, the party will be in contempt for disobedience thereof. Vid. 2 Chanc. Caf. 203. his remedy for redress being to apply to the court, to set the same aside for irregularity.

junction had been granted; the defendant swears by his affidavit that he never was served with the *subpœna*, nor was either the body or the label left with him; and he insisted besides, that the injunction was not sealed when he took the plaintiff in execution; the affidavit of the officer who served the *subpœna* was then ordered to be read, who swears he served the defendant with it by leaving the label, and shewing him the body at the same time.

Lord Chancellor: This is not regular service, because where there is only one defendant, you ought to leave the body of the *subpœna*; but where there are several, you leave the labels with the first defendants you serve, *shewing them the body only*, and with the last you leave the body itself; but as the defendant has appeared, this in the common case would have cured the irregularity of the service, and the defendant could not have taken advantage of it now, (the same rule at law;) but as this was just before the long vacation, when the defendant chose rather to appear than be liable to an attachment, therefore he is at liberty still to insist upon not being served at all, or irregularly served; but as to the injunction's not being sealed, that is no excuse for his proceeding at law after the injunction was granted, because there have been instances here, where a defendant or his attorney only, have been present upon an order for an injunction, and they have proceeded at law before it has been sealed, that the court have considered this as a contempt, and committed the person for it. 3 Atk. 567.

The question was touching the breach of an \* injunction. The defendant in this court brought an action against the plaintiff, as executor of *H. M.* The defendant at law brought a bill, and after the defendant in this court had delivered a de-

\* The words of such injunction are, that all such proceedings shall stay; *licebit autem* for the defendant in equity, (who is plaintiff at law,) *placitum ad communam legem postulare, et ad triationem inde procedere, et pro defectu placiti, judicium intrare; executio vero vigore præsentium retardatur.* After service of an injunction of this kind, the defendant at law put in a frivolous plea to an action of debt on a bond, which the plaintiff demurred to and having gotten it made a *concilium*, after argument, obtained judgment. Also upon another bond, after the injunction served on the defendant and his attorney, they served a declaration. It was objected, first, with regard to the judgment, that this was a breach of the injunction; for that in one case only, *viz. pro defectu placiti*, was the plaintiff at liberty to enter judgment, and here was no want of a plea. Also, that the delivering a declaration in the other action was a manifest contempt, as had been often determined. With respect to the first, the Lord Chancellor strongly inclined to think this no contempt, since a frivolous plea is as no plea; and that, as the plaintiff at law might, by the express terms of the injunction, proceed to try an issue on the facts; by the same reason he might proceed to try an issue in law, which, when the court had determined, and found the plea ill, is, upon the matter no plea. And in relation to the second point, his Lordship thought that, had there not been some resolutions to the contrary, the delivery of the declaration was no breach of the injunction, since by the very terms thereof, the plaintiff is at liberty to proceed to trial, and the delivery, &c. is an incident without which there can be no trial. By the Lord Parker, *Sidney v. Hetherington*, Trinity 1719. 3 P. Will. 146. note (B).  
claration,

claration, upon such defendant's praying time to answer, the plaintiff got an injunction. The plaintiff at law proceeded there, and on *plene administravit* pleaded, took judgment *de bonis testatoris cum acciderint*; after which he took out a *scire facias* in order to an enquiry of assets.

Whereupon it was moved, that this was a breach of the injunction, being a proceeding after judgment; whereas the injunction only gave leave to enter judgment; that the *scire facias* was in nature of a new action on the judgment, which ought not to have been brought without the leave of the court.

But by the Lord Chancellor: Not having heard any precedents cited in this case, I am therefore to be guided by the reason of the thing, and to prevent a delay of justice. It is admitted that after an interlocutory judgment (as by default or on demurrer) the plaintiff may go on to ascertain his damages. Now the meaning of the rule in the present case is, that notwithstanding the injunction, the plaintiff at law should be at liberty to proceed to an effectual judgment; all that the court intends to stop, being the execution. But the plaintiff at law is nevertheless allowed to proceed so far, as he may be at liberty *eo instante* that the injunction shall be dissolved, to take out execution; neither is the *scire facias* like a new action upon the judgment, but a continuation only of the old one, or the same record with that, and in nature of a proceeding after an interlocutory judgment, to a final one; wherefore the court ruled, that the bringing this *scire facias* was no breach of the injunction. 3 P. Will. 146.

Bailiffs, who served execution for breach of injunction, found money hid in the house, which they took away; ordered that the plaintiff make good the money to the defendant, and satisfy all damages he would swear he had sustained. 1 Vern. 207.

*An Order for an Injunction on a Dedimus.*

Master of } Thursday the — day of — in the —  
the Rolls. } year of the reign of his Majesty King George the  
Third, and in the year of our Lord — be-  
tween A. B. and C. D. complainants, and E. F.  
defendant.

**F**ORASMUCH as this court was this present day informed by Mr. —, being of the plaintiff's counsel, that the defendant being served with process to appear to and answer the plaintiff's bill, hath appeared accordingly, but for delay hath craved a commission to answer in the country; and yet in the mean



mean time the said defendant prosecutes the plaintiffs at law for the matters in the bill complained of: It is thereupon ordered that an injunction be awarded against the defendant for stay of his proceedings at law against the said plaintiffs, until the said defendant shall fully answer the plaintiffs' bill, and this court make other order to the contrary; but the said defendant is in the mean time at liberty to call for a plea, and to proceed to trial thereon, and for want of a plea to enter up judgment; but execution is hereby stayed.

*Decquet upon an Injunction on a Dedimus.*

**T**HE King, and so forth; To ——— his counsellors, attornies, solicitors, and agents, greeting. Whereas it is represented to us in our court of Chancery, on the part of *A. B.* and *C. D.* complainants, that they have lately exhibited their bill of complaint in our said court of Chancery, against you the said *E. F.* defendant, to be relieved during the matters therein contained; and that you the said defendant *E. F.* being served with a writ, issuing out of the said court, commanding you to appear and answer the said bill, have appeared, but for delay have craved a commission to answer in the country; and yet in the mean time, you unjustly (as is alledged) prosecute the said complainants at law, for and touching the matters in the said bill complained of: We therefore, in consideration of the premisses, do hereby strictly command and injoin you the said *E. F.* defendant, and all and every the persons before mentioned, under the penalty of two hundred pounds, to be levied on your and each of your lands and tenements, goods and chattels, to our use, that you and each of you do henceforth absolutely desist and forbear from all further proceedings at law against the said complainants, or either of them, touching any of the matters in the said bill complained of, until you the said defendant *E. F.* shall fully answer the said complainant's bill, and this court make other order to the contrary; and this you nor either of you are in any wise to omit, under the penalty aforesaid: But nevertheless the said defendant *E. F.* is at liberty to call for a plea, and proceed to trial thereon, and for want of a plea to enter up judgment; but execution is hereby stayed. Witness the King at *Westminster* the day ——— day of ——— in the ——— year of his reign.

*Order for an Injunction on an Attachment.*

At the Rolls. } *Thursday* the ——— day of ——— in the ———  
 Master of the } year of the reign of our Sovereign Lord King  
 Rolls. } *George* the Third. Between *A. B.* plaintiff,  
 and *C. D.* and *E. F.* defendants.

**F**ORASMUCH as this court was this present day informed by Mr. ——— being of the plaintiff's counsel, that the defendants being served with process to appear to and answer the plaintiff's bill, refuse so to do, are in contempt to an attachment for want thereof, and yet in the mean time prosecute the plaintiff at law for the matters in the bill complained of: It is thereupon ordered that an injunction be awarded against the said defendants, for stay of their proceedings at law, for and touching any matters here in question, until the said defendants shall appear to and fully answer the plaintiff's bill, clear their contempt, and this court make other order to the contrary: But the said defendants are in the mean time at liberty to call for a plea, and proceed to trial thereon, and for want of a plea to enter up judgment; but execution is hereby stayed.

*Decret for an Injunction on an Attachment.*

**T**HE King, and so forth; To ——— their counsellors, attornies, solicitors, and agents, greeting. Whereas it is represented to us in our court of Chancery on the part of *A. B.* complainant, that he hath lately exhibited his bill of complaint in our said court of Chancery against you the said *C. D.* and *E. F.* defendants, touching the matter therein contained; and that you the said defendants being served with a writ, issuing out of our said court; commanding you to appear to and answer the said bill, have not obeyed the same, but are in contempt to an attachment, for not appearing to and answering the said bill; and yet in the mean time you unjustly, as is alledged, prosecute the said complainant at law, touching the matters in the said bill complained of: We therefore, in consideration of the premises, do strictly injoin and command you the said *C. D.* and *E. F.* and all and every the persons before mentioned, under the penalty of two hundred pounds, to be levied on your and each of your lands, goods and chattels, to our use, that you and each of you do absolutely desist from all farther proceedings at law against the said complainant, touching any of the matters in the said bill complained of, until you and each of you shall appear to and fully

fully answer the complainant's said bill, clear your contempts, and this court make other order to the contrary; but nevertheless the said defendants are at liberty to call for a plea, and proceed to a trial thereon, and for want of a plea to enter up judgment; but execution is hereby stayed. Witness the King at *Westminster*, the — day of — in the — year of his reign.

*The Form of a Writ of Injunction.*

**G**EORGE the Third, by the grace of God, of Great Britain, France, and Ireland, King, defender of the faith, and so forth. To — his counsellors, attornies, solicitors and agents, and every of them greeting. Whereas it hath been represented unto us, in our court of Chancery, on the part of — complainant, that he hath lately exhibited his bill of complaint into our said court of Chancery against you the said —, defendant, to be relieved touching the matters therein contained; and that you the said defendant being served with a writ, issuing out of our said court, commanding you to appear to and answer the said bill, *have not obeyed the same, but are in contempt to an attachment for not appearing to and answering the said bill*; and yet in the mean time you unjustly, as is alledged, prosecute the said complainant at law, touching the matters in the said bill complained of: We therefore, in consideration of the premises do strictly enjoin and command you the said —, and all and every the persons before mentioned, under the penalty of two hundred pounds, to be levied on your and every of your lands, goods, and chattels, to our use, that you and every of you do absolutely desist from all farther proceedings at law against the said complainant touching any of the matters in the said bill complained of, until you the said defendant shall have fully answered the said bill, cleared your contempt, and our said court shall make other order to the contrary: but nevertheless, the said defendant is at liberty to call for a plea, and to proceed to trial thereon; and for want of a plea, to enter up judgment; but execution is hereby stayed. Witness ourself at *Westminster*, this — day of — in the — year of our reign. If injunction on a deed, &c. *vide post*.

*On a Dedimus.*

**T**O which bill you the said defendant have appeared, but for delay have craved a commission to take your answer in the country.

[Note; In the injunctions marked *a*, *b*, *c*, these words are to be left out (*viz.*) *have cleared your contempt*.



*On an Order for Time.*

<sup>b</sup>  
**T**O which bill you the said defendant have appeared, but for delay have obtained an order of our said court for time to answer the same; and yet in the mean time prosecute, &c.

*On an insufficient Answer.*

<sup>c</sup>  
**T**O which you the said defendant have appeared, but for delay have put in an insufficient answer; and yet in the mean time prosecute, &c.

*On an Attachment for want of an Answer.*

**T**O which bill you the said defendant have appeared, but have not answered the same, and are in contempt to an attachment for want thereof; and yet in the mean time prosecute, &c.

*An Injunction to stay committing Waste.*

**G**EORGE the Third, &c. To *A. B.* and his workmen, labourers, servants, and agents, each and every of them, greeting. Whereas it hath been represented unto us in our court of Chancery, in a certain cause there depending, wherein *C. D.* is complainant, and you the said *A. B.* are defendant, on the part of the said complainant, that, &c. [*as in the order.*] We therefore, in consideration of the premises aforesaid, do strictly injoin and command you the said *A. B.* and your workmen, labourers, servants and agents, and all and every one of you, under the penalty of one thousand pounds, to be levied upon your and each and every of your lands, goods and chattels, to our use, that you and every one of you do from henceforth altogether absolutely desist from felling or cutting down any timber or other trees, standing, growing or being in or upon the premises in question, or from committing or doing any other or further waste, or spoil, in or upon the said premises, or any part thereof, until our said court shall make other order to the contrary. Witness, &c.

*A special Injunction to stay Execution till the Hearing.*

**G E O R G E**, &c. To **C. D.** his counsellors, attornies, solicitors, and agents, and every of them, greeting. Whereas it hath been represented unto us in our court of Chancery, on the part of **A. B.** complainant, against you the said **C. D.** defendant, that the complainant being, &c. [*set forth the allegation as in the order*] therefore it was prayed that the complainant might have an injunction for stay of your the said defendant's proceedings at law until the hearing of the cause: We therefore, in consideration of the premises aforesaid, do strictly injoin and command you the said **C. D.** and all and every the persons before mentioned, under the penalty of one thousand pounds, to be levied upon your and every of your lands, goods and chattels, to our use, that upon the said complainant's giving unto you the said defendant **C. D.** judgment on the said bond, with a release of errors (and consenting not to bring any writ of error), subject to the order of our said court, that you and every of you do absolutely desist from taking out execution against the said complainant until the hearing of this cause by our said court of Chancery. Witnesses, &c.

*A special Injunction to stay the Defendants from copying, engraving, &c. and selling of Prints, pursuant to an Act of Parliament*  
8 Geo. 2. chap. 13.

**G E O R G E**, &c. To ———, and also to their and every one of their servants, workmen, and agents, to all and every of them, greeting. Whereas on the ——— day of ———, and on the ——— day of ——— last, it was alledged to us in our court of Chancery, by counsel on behalf of ——— and ——— his wife, plaintiffs, against you the said ———, defendants, that by an act of parliament made in the eight year of our reign, it is (amongst other things) enacted, That from and after the twenty-fourth day of *June*, one thousand seven hundred and thirty-five, every person who should invent and design, engrave, etch, or work in *mezzotinto* or *chiaro oscuro*, or from his own works and inventions should cause the same so to be done, should have the sole right and liberty of printing and reprinting the same for the term of fourteen years, to commence from the day of the first publishing thereof, unless by the consent of the proprietor first had in writing, and signed in the presence of two or more credible witnesses, under the penalties in the said act particularly mentioned: That the said plaintiff ———, since the said twenty-fourth day of *June*, one thousand seven hundred and thirty-five, hath  
with

with great labour and expence invented, designed, etched, and engraved about — prints, being the representations of, &c. And on the — day of — 1737, published four of the said prints, representing — and — : And that notwithstanding the said act of parliament, you the said defendants have copied, published, and sold, the said four last-mentioned prints, as by the affidavit of the plaintiff — read, appeared; to be relieved wherein, the said plaintiffs have exhibited their bill in our said court of Chancery against you the said defendants, as by the Six Clerks' certificate appeared; and you the said defendant — having put in your answer thereto, thereby admit to have sold and published the said prints, but say they were sent to you by the said defendant —, and that as soon as you was informed of the said plaintiff's right, you sent them back again: We having regard to the matters aforesaid, and on reading affidavits of notice of the said motions, do therefore strictly command and enjoin you the aforesaid defendants — and your servants, workmen, and agents, and all and every of you, under the penalty of one thousand pounds, to be levied upon your and each of your lands, goods, and chattels, to our use, that you, and each and every one of you, do from henceforth altogether desist from copying, engraving, etching, working, publishing, and selling, all or any of the aforesaid prints, until the further order of our said court of Chancery. Witness, &c.

*A Writ of Injunction for the Defendant to deliver Possession of Lands to the Plaintiff, pursuant to a Decree.*

**GEORGE** the Third, &c. To *C. D.* and all other person and persons whatsoever, who are in possession of, or have or claim any right, title, or interest whatsoever of, in, or to, all or any part of the messuage, lands, tenements, or premises in question, greeting. Whereas it hath been represented to us in our court of Chancery, in a cause wherein *A. B.* and *E.* his wife are complainants, and you the said *C. D.* are defendant, that by the decree made in this cause it was ordered, that you the defendant *C. D.* shall deliver possession of the premises in question, and all deeds and writings in your custody or power relating thereto, to the said complainants; that you the defendant, who are in possession of the messuage or lands in question, was served with a writ of execution of the said decree, and have been required to deliver possession of the messuage and lands, which you refuse to do; and a commission of rebellion having been made out against you the defendant, and returned that you the defendant are not to be found, it was ordered, that an in-



junction be awarded against you the said defendant, to enjoin you to deliver possession of the said messuage and lands to the said complainants, pursuant to the said decree. We therefore, in consideration of the premises, do strictly enjoin and command you the said defendant *C. D.* and all and every other persons before named, under the penalty of one thousand pounds, to be levied upon your, each, and every of your lands, goods, and chattels to our use, that you, each, and every of you, do deliver the possession of the said messuage, lands, and premises, and of every part and parcel thereof to the said complainant *A. B.* and *E.* his wife, pursuant to the said decree: And hereof fail not at your peril. Witness, &c.

### Bills and Answers.

#### *A Bill to prove a Will against the Heir at Law.*

*To the Right Honourable the Lord High Chancellor of Great Britain.*

**H**UMBL Y complaining, sheweth unto your Lordship, your orator *G. S. of W.* in the parish of *B.* in the county of *D.* an infant under the age of twenty-one years, by *M. S.* widow, his mother and next friend, That *J. S. of W.* aforesaid, your orator's late father deceased, being in his life-time and at the time of his death seised, possessed of, and interested in, a very considerable estate both real and personal; and being minded to settle and dispose of the same, did on or about the fifth day of *March*, which was in the year of our Lord 1727, (being of sound and disposing mind, memory, and understanding,) duly make and publish his last will in writing in the words and figures following, that is to say, In the name of God, Amen, &c. [*Here set forth the will verbatim.*] In witness, &c. *J. S.* Signed, sealed, published, and declared, &c. *G. H. J. K. L. M.* Which said will was duly signed, sealed, published and declared by your orator's said father in the presence of the persons whose names are subscribed to the said will as witnesses to the same, as in and by the said will, relation being thereunto had, it doth and may more fully appear. And your orator further sheweth unto your Lordship, that shortly after making the said will, *to wit*, on the — day of —, the said *J. S.* departed this life, without revoking or making any alteration of the same, so seised and possessed as aforesaid, leaving *J. S. of F.* in the said county of *D.* his only son and heir at law; but the said *J. S.* having duly made and published his last will and testament in manner aforesaid, your orator well hoped

hoped he should have quietly and peaceably held and enjoyed the same messuage, farm and lands, according to the directions of the said will, as in all justice and equity he ought to have done. **But now so it is,** may it please your Lordship, that the said *J. S.* your orator's brother and heir at law of the said *J. S.* deceased, in order to defeat and defraud your orator of the benefit of his said father's will, and the premises thereby to him devised, doth sometimes pretend, that your orator's said father the said *J. S.* never made and published such last will and testament as aforesaid; or that if he did, he was only tenant for life of the said premises so devised to your orator, and therefore had no power to dispose of the same, or that he was not of sound and disposing mind, memory, and understanding at the time of his making his said will as aforesaid, and therefore pretends your orator ought not to hold the same under the said will. And at other times your orator's said brother pretends, that in case his father was of sound and disposing mind when he made, published, and declared his said will, yet the witnesses did not subscribe their names as witnesses thereunto in his presence, and so the said will is void, and that he the said *J. S.* as heir at law to his said father, hath a good right and title to the said premises; or that if they did, then he threatens that when the witnesses to the said will are dead, he will contest the same and the validity thereof, and set up his title as heir at law to the said devised premises, by means whereof your orator cannot dispose of the said premises devised to him as aforesaid nor be quieted in the present possession thereof: All which pretences of the said *J. S.* and his confederates are contrary to equity and good conscience, and tend to injure and oppress your orator. **In tender consideration** whereof, and forasmuch as your orator cannot examine his witnesses, who are aged and infirm, and not likely to live long, or have their testimony preserved in proof of the said will, without the aid and assistance of this honourable court: **To the end,** therefore, that the said *J. S.* your orator's said brother, may true answer make to all and singular the premises as fully and particularly as if the same was here again repeated and interrogated, and may set forth whether your orator's father was not in his life-time, and at the time of his death, seised of the premises before-mentioned, and what estate he had therein, and whether he did not, and when, make such will as aforesaid, and may set forth whether he was not of sound and disposing mind, memory, and understanding at the time of his making and publishing thereof, and whether he had not power to dispose and make such devise of the said premises in manner aforesaid; and may also set forth what title or interest he your orator's said brother claims to or in the same, and that your orator may have his

witnesses to the said will examined, and their testimony recorded in this honourable court, in order to the perpetuating thereof, so that your orator may have the benefit thereof at any time when there shall be occasion. May it please your Lordship to grant unto your orator his Majesty's most gracious writ of *sub-pœna* to be directed to the said J. S. thereby commanding him at a certain day, and under a certain pain therein to be inserted, personally to be and appear before your Lordship in this honourable court, then and there to answer the premises, and to stand to and abide such order and decree therein, as to your Lordship shall seem agreeable to equity and good conscience.

*And your orator shall ever pray, &c.*

*The Answer to the foregoing Bill.*

*The Answer of J. S. an Infant under the Age of Twenty-one Years, by W. M. his Guardian, Defendant, to the Bill of Complaint of G. S. an Infant, by his next Friend M. S. Widow, Complainant.*

THE said defendant, saving and reserving to himself now, and at all times hereafter, all and all manner of benefit and advantage of exception to the manifold incertainties and imperfections in the complainant's said bill of complaint contained, for answer thereunto, or unto so much thereof as materially concerns this defendant to make answer unto, he answereth and saith That he believeth it to be true, that J. S. in the bill named, father of him this defendant and the complainant, was in his life-time, and at the time of his decease, seised of the premises in the bill mentioned to be devised to the complainant; and doth also believe, that the said J. S. being so thereof seised, did about the time for that purpose in the bill mentioned make and duly publish his last will and testament in writing, whereby he devised the said premises to the complainant, as in and by the said bill of complaint is set forth and alledged, and that he had power to dispose of the same, and was of sound mind, memory and understanding at the time of his making thereof; but this defendant doth not know the same of his own knowledge, and therefore hopeth that the complainant shall be compelled to make due proof thereof before he shall be let into any benefit by the said will; and the rather, for that in case this defendant's said father had not made such will, and thereby such disposition of the premises as in the bill is set forth, he this defendant, as he is advised, had been well intitled to the same as heir at law to his said father: And this defendant saith, that he being but an infant, and not capable of judging of the matters in the complain-



complainant's said bill contained, humbly hopes this court will take care of him and his interest in the said premises, in case it shall appear he hath any therein: And this defendant, further answering, denies that he ever gave out in speeches, that his said father had no right or power of disposing of the said premises, or that he made no such will as in bill, or that in case he made any such will, yet that he was not of sound and disposing mind, memory, and understanding, when he made the same, as in the bill is untruly suggested: And this defendant denies all and all manner of combination and confederacy wherewith he stands charged in and by the said bill of complaint. Without that, that there is any other matter or thing material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matters and things this defendant is ready to aver and prove, as this honourable court shall direct and award, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

[*Vide post* interrogatories for proof of the will, title *Interrogatories*.]

*A Bill of the like kind as the former, with an Answer, insisting that the Testatrix was a Papist.*

**H**UMBLY complaining, shew unto your Lordship, your orators and oratrix, *T. C.* late of ——— in the county of ———, and *E. P.* commonly called *P.* of ——— in the county of ———, gent. *D. T.* of ——— in the county of ———, spinster, *R. C.* of ——— in the said county of ———, gent. and *H. B.* of ——— in the county of ———, gent. That *J. D.* late of the parish of ——— in the said county of ———, widow, late the relict of *G. W.* late of ——— in the county of ———, gent. deceased, and one of the daughters of *C. T.* late of ———, Esq; deceased, who was son and heir of *E. T.* the younger, late of ———, knight, also deceased, being in her life-time, and at the time of her death, seised of the reversion and inheritance in fee, (or of some other good estate of inheritance expectant upon the death of *E. T.* Esq. whereby she had power to dispose of the same,) of and in divers manors, messuages, lands, tenements and hereditaments in the counties of ——— and ———, and elsewhere; and being minded and desirous to dispose of the same in such manner and sort, that no disputes might arise after her death, touching any claim that might be made thereunto, or to

any part thereof, after her death; and being of sound and disposing mind, memory, and understanding, did, on or about the — day of — in the year —, duly make and publish her last will and testament in writing, and signed the same in the presence of three credible witnesses, who in her presence subscribed and attested the same in such manner and form as the law requires in cases of devises of lands and tenements and real estates, which last will and testament is in the words following: In the name of God, Amen. I, *I. D.* of —, widow, do make and ordain this my last will and testament in manner and form following; *Item*, I give and devise unto my loving friend *E. P.* of — in the county of — gent. and *T. C.* of — in the county of —, all my estate, &c. [*Here set forth the words of the will.*] In witness whereof I have hereunto set my hand and seal this — day of —, in the year of our Lord —. *J. D.* Signed, sealed, published, and declared by the said testatrix as her last will and testament, in the presence of us, and attested by us in her presence, *T. H.*, *J. B.*, *T. R.* And your orators and oratrix, further shew unto your Lordship, that the said *J. D.* soon after making and publishing of her said will, (*to wit*), on or about the third day of *July* last, departed this life without revoking or altering her said will, leaving *S.* the wife of *J. G.* of *W.* — in the county of —, gent. (a defendant herein after named,) her heir at law; And your orators *T. C.* and *E. P.* proved the said will, and took upon themselves the burthen and execution thereof; and your orators and oratrix well hoped, that no disputes would have arisen touching the said disposition made by the said *J. D.* of her real estate as aforesaid, or of her power in so doing, or touching or concerning any claim or demand upon her said estate or any part thereof. **But now so it is**, may it please your Lordship, that the said *J. G.* and *S.* his wife, combining and confederating to and with divers persons at present unknown to your orators and oratrix, whose names, when discovered, your orators and oratrix pray may be herein inserted, with apt words to charge them, and each and every of them, how to injure and prevent your orators and oratrix in the devises made them respectively in and by the said will of the said *J. D.* sometimes pretend that the said *J.* did not make and publish such will of such date, and to such purport and effect as is herein before set forth, or if she did, yet that the same was not so made, executed, and attested, as the law requires in case of a will for passing of real estates; or if so, that the said *J. D.* was not of sound and disposing mind, memory, and understanding at the time of making such will; or if she was of sound and disposing mind, memory, and understanding at the time of making thereof, that she had not power to devise the same in the manner she has done

done in and by her said will; whereas your orators and oratrix expressly charge, and so the said confederates well know in their conscience the truth to be, that the said *J. D.* was, at the time of making her said last will and testament, of sound and disposing mind, memory, and understanding, and had good and absolute power to make such disposition and devises as she hath done therein and thereby, and that she did accordingly make and publish her said will in such manner and form as the law requires in cases of devises of real estates; and therefore the said confederates, to defeat your orators and oratrix of the devises, and estates therein given and made to them, decline contesting the said will, or the validity thereof, during the lives of the witnesses thereto, but give out, that when the witnesses to the said will are dead, they will call in question the validity thereof. To avoid which, and that the testimony of the witnesses to the said will may be perpetuated, **And to the end** that the said confederates may, upon their several and respective corporal oaths, full, true, and perfect answer make, to all and singular the premises, as fully and particularly as if the same were here again repeated, and they thereto interrogated; and more especially that they may set forth and discover whether they do not know, have heard or been informed, and in their consciences believe, that the said *J. D.* did make and publish her last will and testament, of such date, purport and effect as herein-before for that purpose is set forth, or of any other, and what date, purport and effect; and whether she the said *J. D.* was not of sound and disposing mind, memory, and understanding, at the time of making and publishing of the said last will and testament herein before set forth, and whether the same was not duly published in the presence of such three witnesses, and by them attested in the presence of the said testatrix, as mentioned in the said will, and herein-before set forth, and as the law directs in case of devises of real estates; and whether the said testatrix had not power to make such devises of her real estate as in and by the last will and testament she has done, and why, and for what reason she had not power so to do; and whether the said testatrix *J. D.* did not depart this life at or about the time herein before for that purpose mentioned, or at any other, and what time; and may set forth whether they do or do not contest the said will, or the validity thereof; and that your orators and oratrix may be at liberty to examine their witnesses to the said will, in order to perpetuate their testimony thereto. May it please your Lordship, &c.



*The Answer of J. G. and S. his Wife, Defendants, to the amended Bill of Complaint of T. C. and E. P. otherwise P. Gent. and D. T. Widow, and others, Complainants.*

THE said defendants now, and at all times hereafter, saying, &c. they answer and say: They admit that the defendant S. is heir at law of J. D. in the complainant's said bill named; and these defendants have heard, that, by virtue of or under some limitation or devise in the will of Sir E. T. late of ———, in the county of ———, grandfather of this defendant S. G. bearing date on or about the ——— day of ———, several manors, messuages, lands, tenements, and hereditaments in the counties of ——— and ———, or the reversion or inheritance thereof, were limited by the said Sir E. T. to his nephew E. T. for life, remainder to trustees to preserve several contingent remainders and estates therein mentioned; and these defendants have heard, and believe it to be true, that a remainder in the said premises was by the said will limited, after several intermediate estates, to the daughter and daughters of M. T. one of the daughters of the said Sir E. T. and to the daughter and daughters of C. T. the father of the said J. and to the heirs of all and every such daughter and daughters of the said M. T. and C. T. To hold as tenants in common, and not as joint-tenants; but as touching the will of the said Sir E. T. and the limitations in the said will, these defendants, for more certainty, refer thereunto, when the same shall be produced to this honourable court: But these defendants say, that in case the said Sir E. T. duly made such will as aforesaid, that the said J. D. at the time of making thereof was a papist, and professed the popish religion, as these defendants do believe and insist, and believe and insist that she continued to be a papist, and to profess the popish religion from that time until the time of her death, and by means thereof was, as these defendants are advised and insist, by the statute made in the 11th and 12th years of the reign of king William III. intituled *An act for the further preventing the growth of popery*, disabled and made incapable to purchase, either in her own name, or in the name of any other person or persons to her own use, or in trust for her, any manors, lands, profits out of the lands, tenements, rents, farms, or hereditaments within the kingdom of England, dominion of Wales, and town of Berwick upon Tweed: And these defendants say, that the said E. T. the nephew was a protestant, and survived the said J. D. and that this defendant S. is heir at law to the said Sir E. T. And these defendants do believe, and admit it to be true, that the said J. was the only surviving daughter of the said C. T. and that the said M. T. died without

without issue and unmarried; but whether the said *J.* made such will as in the complainant's bill is mentioned and set forth, or whether she was of sound memory and understanding at the time of making such will, or whether the same was so made, published, and attested, as in the complainant's bill is set forth, or as the law requires in case of devises of land, or in any and what other manner or form, these defendants know not, nor can set forth, nor have been informed thereof, save by the said bill. And these defendants say, the complainant *E. P.* and also *D. T.* in the bill named, are persons that were educated in the popish religion, and professing the same since the tenth day of *April* in the year of our Lord 1700, and that at the time of making the will of the said *J. D.* in the bill for that purpose mentioned, if any such she made, and also at the time of her death, they the said *E. P.* and *D. T.* and each of them, were papists and professed the popish religion, and that they and each of them have continued papists, and to profess the popish religion, ever since the death of the said *J. D.* and that they now are papists, and do profess the popish religion, and are, as these defendants are advised and insist, by the aforesaid statute made in the 11th and 12th years of the reign of king *William III.* intituled, *An act for the further preventing the growth of popery*, disabled and made incapable to purchase, either in their own names, or in the name of any other person or persons, to their use, or in trust for them, any manors, lands, profits out of lands, tenements, rents, farms, or hereditaments within the kingdom of *England*, dominion of *Wales*, and town of *Berwick upon Tweed*; and these defendants say, that they are advised, and humbly insist, that in and by the same statute, all and singular estates, terms, or any other interest or profits whatsoever out of the lands, from and after the said tenth day of *April* aforesaid, in the said year of our Lord 1700 aforesaid, to be made, suffered, or done, to or for the use or benefit of any papist, or person making profession of the popish religion, or upon any trust or confidence mediately or immediately, to or for the benefit or relief of any such person or persons, is utterly void, and of none effect, to all intents, constructions, or purposes whatsoever; and these defendants, each speaking for themselves, say they are protestants, and claim the benefit of the aforesaid act of Parliament or statute, and are advised, and humbly insist, that the said will of the said *J. D.* in the complainant's bill of complaint for that purpose mentioned, if any such she made, so far as the same tends mediately or immediately to or for the benefit of the said *E. P.* or *D. T.* or either of them, is utterly void and of none effect, to all intents, constructions, or purposes whatsoever; and that these defendants, in right of this defendant *S.* as the said *S.* is heir at law to the said *J. D.* are intituled

tled to all the real estate of the said *J. D.* in possession or reversion, which was not sufficiently devised by her said will, if any such she made. And these defendants further say, that the said *J. D.* at the time of making her last will and testament, if any such she made, and at the time of her death, was a papist, and professed the popish religion, and these defendants, are advised, and humbly insist, that, according to the laws and statutes of this realm now in force, the trusts created by the will of the said *J. D.* ought not to be performed and executed as therein is mentioned; and these defendants say they believe the said *J. D.* died about the — day of —, and deny all and all manner of unjust and unlawful combination to the intent in the bill charge d; without that, that, &c.

*A Bill against an Executor for an Account, &c.*

**H**U M B L Y complaining, shew unto your Lordship, your orator and oratrix, *J. K.* of —, in the county of —, Esq. and *M.* his wife, which said *M.* is the daughter and surviving devisee under the last will and testament of *B. A.* late of —, in the county of —, deceased, and also the only sister and heir at law of *B. A.* the younger, late of — afore-said, deceased, son of the said *B. A.* That the said *B. A.* the father, being seised and possessed of a considerable real and personal estate, duly made and published his last will and testament in writing bearing date on or about the — day of — 1725, and thereby gave to his wife (your oratrix's mother) the sum of two hundred pounds, to be paid her within one year next after his decease; and devised to his son *B. A.* your oratrix's brother, all that his farm and lands called —, situate in the parish of —, in the said county of —, To hold to the said *B.* the son, his heirs and assigns for ever; and did thereby give and devise unto the said *B.* the son, and to your oratrix his daughter, all other his real and personal estate of what kind or quality soever, (except his household goods and plate,) which he gave to his said wife *C.* (your oratrix's mother) during her natural life; and after her death he gave the said household goods and plate to your oratrix, her executors and administrators, to hold the said personal and real estate (except as before excepted) unto his said son the said *B.* and your oratrix, their heirs, executors, and administrators for ever, subject to the payment of a legacy of ten pounds, to *J. A.* (one of the brothers of the said *B. A.* the testator,) and also to the payment of a legacy of twenty pounds to *R. A.* another brother of the said *B. A.* the testator and a guinea to his nephew *J. W.* to be paid them



them severally within one year next after his death ; and the said *B. A.* did in and by his said will desire, that his said wife might have the care and bringing up of his said children the said *B. A.* and your oratrix during their minority, so long as she should continue a widow ; but in case she should intermarry with any other person after his death, then he willed that his executors might have the care and bringing up of his said children, and might receive the rents and interest money of his real and personal estate for that purpose ; and of his said will he the said testator did nominate and appoint his said brother *J. A.* and *J. T.* executors. And your orator and oratrix further shew unto your Lordship, that the said *B. A.* your oratrix's father, departed this life on or about the — day of — 1729. without altering, or revoking the said will ; and upon his death the said *J. A.* proved the said will in the prerogative court of the archbishop of *Canterbury* ; and the said *J. T.* refusing to act under the said will, the said *J. A.* took upon himself the burthen and execution thereof, and by virtue thereof possessed himself of all the personal estate of the said *B. A.* to the amount of — and upwards, in trust for the said *B. A.* the son, and your oratrix, during their minority ; and the said *J. A.* also took possession, and received the rents and profits of the real estate of the said testator devised by his said will, in trust also for the said *B. A.* the son and your oratrix. And your orator and oratrix further shew unto your Lordship, that your oratrix's mother the said *C.* continued the care and bringing up of your oratrix and the said *B. A.* her brother, from the death of your oratrix's father the said *B. A.* the testator, till about a month of — 1730, at which time she intermarried with one *H. C.* and immediately after her marriage with the said *H. C.* the said *J. A.* alone took care of the education and maintenance, and had the bringing up of your oratrix and her said brother *B. A.* And your orator and oratrix further shew unto your Lordship, that the said *B. A.* your oratrix's brother departed this life during his infancy, *to wit*, in or about the month of — 1731, intestate ; and upon his death, your oratrix, as his only sister and heir at law, became intitled to the said real estate called —, devised to him by the will of the said *B. A.* the testator, and also to the moiety or half part of all other the real and personal estate of the said *B. A.* the testator devised to the said *B. A.* your oratrix's brother in and by the said will. And your orator and oratrix further shew unto your Lordship, that the said *J. T.* refusing to act in the said executorship, the said *J. A.* alone acted under the trust mentioned in the said will, and possessed himself of all the said testator's personal estate, to the amount of — and upwards, and hath received the rents, issues, and profits of the real estate devised to the said *B. A.* your oratrix's brother

brother (since deceased) and your oratrix as aforesaid, ever since the death of the said *B. A.* the testator, and now continues to receive the same: and your orator and oratrix further shew unto your Lordship, that in or about the month of ——— last past your orator and oratrix intermarried; whereby your orator, in right of your oratrix his wife, is become intitled to the real and personal estates of the said *B. A.* the testator, subject to the legacies in the said will mentioned; and your orator and oratrix have since their intermarriage often applied to the said *J. A.* in a friendly manner, and desired him to give your orator an account of the personal estate of the said testator, and of what the same consisted, and also an account of the rents, issues, and profits of his real estate, and to know how and in what manner the same have been paid and applied, and how much thereof remains in his hands; and that he might pay to your orator and oratrix what, upon the ballance of such account, should appear to be due to them, in right of your oratrix, and assign over unto your orator such part of the testator's personal estate, as consists in mortgages, bonds, or other securities and to be let into possession of the real estate of the said *B. A.* the testator in right of your oratrix his wife, as surviving devisee under the will of the said testator, and as heir at law of her brother the said *B. A.* and your orator and oratrix well hoped the said *J. A.* would have complied with such their reasonable requests, as in justice and equity he ought to have done. *But now so it is,* may it please your Lordship, that the said *J. A.* combining and confederating himself to and with the said *J. C.* and *C.* his wife, and to and with divers other persons at present unknown to your orator and oratrix, whose names, when discovered, your orator and oratrix pray may be inserted herein, with apt words to charge them, contriving how to defraud your orator and oratrix, and to defeat your oratrix of the benefit intended by the devise in the said will, he the said *J. A.* her uncle, refuses to give or render to your orator and oratrix, any account whatsoever of the said testator's personal estate, or of the rents, issues, and profits of the said real estate, and to pay what is due to your orator in right of your oratrix, or to let your orator into possession of the said real estate; the said *J. A.* sometimes pretending, that the personal estate of the said *B. A.* the testator, was very small and inconsiderable in value, and not sufficient to pay the debts, legacies, and funeral expences of the said testator; whereas your orator and oratrix charge, and so the truth is, that the said testator died possessed of a considerable personal estate, much more than sufficient to pay all his just debts, legacies, and funeral expences, with a great overplus; your orator and oratrix charging, that the said *J. A.* hath, out of the monies arising from the personal estate of the said testator, paid all the testator's debts, legacies,

legacies, and funeral expences, and after payment thereof, having a great overplus in his hands, did lend out to several persons on mortgages, bonds and other securities, several large sums of money, and hath received the interest thereof, and applied the same to his own use; and at other times the said *J. A.* pretends that the rents, issues, and profits of the real estate devised by the said testator, are so small, that they will not amount to, or be sufficient to reimburse and satisfy him for the charges and expences he hath been at in the maintenance and education of the said *B. A.* the son and your oratrix, but that there will be a considerable sum due to him on the balance of accounts for such maintenance and education: whereas your orator and oratrix do charge, that the real estate devised by the testator to his son *B. A.* was and is of the yearly value of ——— and upwards, and that the real estate devised by the said testator to the said *B. A.* his son and your oratrix, was and is of the yearly value of ——— and upwards, amounting together to ——— a year and upwards; and your orator and oratrix do charge, and doubt not but to prove that the said *J. A.* expended and laid out but very little thereof for the maintenance and education of your oratrix and her said brother *B. A.* the manner of their education being very private and no way expensive; and at other times the said *J. A.* pretends, that the said *J. T.* the other executor named in the will of the said testator, or the said *C.* your oratrix's mother, possessed themselves of all or greatest part of the personal estate of the said testator, and that they, or one of them, received the rents, issues, and profits, of the real estate ever since the testator's death, and, that he the said *J. A.* did not intermeddle therewith; and at other times the said *J. A.* doth acknowledge and confess that he has been, and is, the only acting executor under the said testator's will, and that he hath received all the said testator's personal estate to a considerable value, and that he hath also received the rents, issues, and profits of the said real estates devised by the said testator as aforesaid; but then the said *J. A.* pretends, that he did lend out all, or a great part thereof, to divers persons at interest on mortgages, bonds, notes, and other securities, intending the same for the benefit of your oratrix, but that such persons have failed in the world and become insolvent, so that the money lent to them, or the most of them cannot now be got in or recovered; and the said *J. A.* pretends, as he intended the benefit of your oratrix in lending out the said trust-money, he is not, nor ought to be, accountable for any losses, that have happened, or shall hereafter happen on that account; more especially, as the person or persons to whom he so lent the same, was and were, at the time of his so lending the same, in very good circumstances, and reputed to be very rich; but how much of the trust money, or to whom, or when, or upon what



what securities the same was so lent, he the said *J. A.* refuses to discover: all which actions and doings of the said *J. A.* and the other confederates, are contrary to right, equity, and good conscience, and tend to the great injury of your orator and oratrix. **In tender consideration** whereof, and forasmuch as matters of this nature are most properly cognizable and relievable in a court of equity before your Lordship, and in regard your orator and oratrix cannot compel the said *J. A.* to account for the said testator's personal estate, and the rents and profits of his real estate, or the payment of what is justly due and owing by your orator and oratrix under the will of the said testator, but by the aid and assistance of a court of equity: **To the end** therefore that the said *J. A. H. C.* and *C.* his wife, may upon their several corporal oaths, true and perfect answer make to all and singular the premises, as fully and particularly as if the same were here again repeated and interrogated, and that the said *J. A.* may set forth, whether the said *B. A.* your oratrix's father, did not make such last will and testament as herein before is set forth, or any other, and what will; and whether the said *B. A.* the testator, did not depart this life on or about — day of — 1729, without altering or revoking the said will; and whether upon his death the said *J. A.* alone did not prove the same in the prerogative court of *Canterbury*, or in any other, and what ecclesiastical court; and whether the said *J. A.* did not, by virtue thereof, receive and get into his hands, the custody, possession, or power, of all; or such part of the testator's personal estate as he could come by; and that the said *J. A.* may set forth a true and perfect account of all and singular the personal estate of the said testator which he died possessed of or intitled unto, and the natures, kinds, quantities and qualities thereof, and in what the same consisted, and how much, and what part thereof, came to the hands of the said *J. A.* or to the hands, custody, power, or possession of any other person or persons for his use, and how and in what manner the same has been paid, applied, or disposed of, and how much and what part thereof remains unpaid or undisposed of, and where, and in whose hands, custody, or power, all or any part thereof now is or are; and whether the said *J. A.* or who else on the death of the said testator, did enter upon and take possession of the real estate which the said testator died seised of, and received the rents issues and profits thereof; and that the said confederates may set forth a just and true rental or particular of the said real estate, and where the same lieth and is situate, and by whom occupied or tenanted, and the yearly and other value thereof, as well of such part of the said real estate devised by the said testator to his son *B. A.* and his heirs, as that part thereof devised to the said *B. A.* the son,

son, and your oratrix, and their heirs, and may set forth who hath or have received the rents, issues, and profits thereof since the testator's death, and how the same hath been applied and disposed of, and to whom and when, and who now is or are in the perception of the said rents, issues, and profits thereof; and that the said confederates may answer and set forth by whom, and in what manner the said *B. A.* the son and your oratrix were maintained and educated, and who hath had the care and bringing them up since the testator's death, to the time of the death of the said *B. A.* the son, and from that time to the time of the intermarriage of your orator and oratrix, and may set forth how much yearly, and otherwise, hath been paid, laid out, and expended for such maintenance and education; and may set forth whether the said *C.* your oratrix's said mother did not, on or about the time herein before for that purpose mentioned, intermarry with the said *H. C.* and whether *B. A.* the son, did not depart this life in his infancy, about the month of ——— 1731, and whether upon his death your oratrix, as his only sister and heir at law, did not become, and is not well entitled to, such part of the said testator's real estate, as was devised by the said testator to the said *B. A.* the son, and his heirs, and also to the moiety or half part of all other the testator's real estate, devised by him the said *B. A.* the son jointly with your oratrix; and that the said *J. A.* may also set forth, whether the said *J. T.* as one of the executors under the said will, or otherwise, to his knowledge or belief, ever received any, and what part of the personal estate, or the rents and profits of the real estate of the said testator, or whether the said *J. T.* as one of the executors under the said will, or otherwise, to his knowledge or belief, ever received any, or what part of the personal estate, or the rents and profits of the real estate of the said testator, or whether the said *J. T.* did not absolutely refuse to act therein, and leave the whole management and care thereof to him the said *J. A.* and whether the said *J. A.* did not accordingly alone act under the said wills and possess himself of all the said testator's personal estate, and enter upon and take possession of all the testator's real estate, and receive the rents, issues, and profits thereof; and that the said confederates may answer and set forth, whether your orator and oratrix did not intermarry in or about the month of ——— last past, and whether they have not many times, and when, since their intermarriage, both by themselves and friends, applied to the said *J. A.* to have an account of the personal estate, and the rents and profits of the real estate of the said testator, and to be paid what, upon such account, should appear to be due and owing to your orator in right of your oratrix; and whether the said *J. A.* did not, and for what reason, refuse to give or render such

such account, or to pay your orator and oratrix any money on account thereof, or what did the said *J. A.* say or declare when such application was made to him by or on the behalf of your orator and oratrix; and that the said *C.* may set forth whether she hath received her legacy of two hundred pounds, given her by the will of the said testator, and when, and from whom, she so received the same; and that the said *H. C.* and *C.* may set forth, whether they, or either, and which of them, have received any, and what part of the said testator's personal estate, or the rents, issues, and profits of the said testator's real estate; and that the said *J. A.* may answer and set forth, whether he did at any time, and when, lend to any, and what person or persons, and to whom by name, any, and what part of the said trust-money, at interest, arising from the personal estate or the rents and profits of the real estate of the said testator, upon any, and what securities; and may set forth, how much he hath received from time to time as interest thereon, and whether the security or securities he took for the money he so lent, is, or are good and sufficient securities for the money he so lent, or whether the same are not very insufficient, uncertain, and precarious; and whether the monies so lent by him on such securities, is not, or are likely to be lost, by the scantiness of the said securities, or by the deaths or insolvencies of the persons to whom the same were lent: and that the said *J. A.* may be decreed to come to a just and fair account with your orator and oratrix for the personal estate of the said testator, and for the rents, issues, and profits, of the said real estate devised by the said testator to the said *B. A.* the son, and to your oratrix, which hath come to his hands, custody, possession, or power, or which hath been received by him, or any other person or persons by his order, and for his use; and that he may pay to your orator and oratrix what, upon such account, shall appear to be due to them; and that the said *J. A.* may assign over and deliver to your orator and oratrix, all such securities which hath, or have been entered into and given for such part of the trust-money as hath been lent out by the said *J. A.* or any other person or persons; and that your orator and oratrix may be let into possession of the said real estate whereof the said testator died seised; and that your orator and oratrix may have such further and other relief in the premises, as to your Lordship shall seem meet. *May it please your Lordship, &c.*



*A Bill brought by Creditors for an Account of Testator's personal Estate, and to be paid their Debts.*

*To the Right Honourable, &c.*

**H** U M B L Y complaining, shew unto your Lordship your orators and oratrixes *J. C.* of the parish of — in the county of —, gentleman, *S. G.* of the same parish and county, spinster, *S. B.* of the same parish and county, woollen draper, *A. W.* of — in the county of — butcher, *T. W.* of the same place, vintner, *J. N.* of the parish of — in the county of —, inn-keeper, and *W. L.* of — in the county of —, yeoman, creditors of *E. S.* late of — in the county of —, Esq.; deceased, That the said *E. S.* in his life-time, and at the time of his decease, was justly indebted to your orator and oratrixes respectively in the several sums, and in such manner as hereinafter mentioned, that is to say, To your orator *J. C.* on a bond or obligation given by the said *E. S.* unto your said orator *J. C.* bearing date on or about the twentieth day of *January* which was in the year of our Lord one thousand seven hundred and sixty, of the penalty of 230 *l.* conditioned for the payment of one hundred and sixteen pounds four shillings, and interest, on the twenty-third day of *July* one thousand seven hundred and sixty-five; and the said *E. S.* having paid part thereof to your orator, there is now due to your orator the principal sum of forty-one pounds fourteen shillings, and no more, together with interest for the same, from the ninth day of *June* one thousand seven hundred and sixty-five; and the said *E. S.* was as aforesaid likewise indebted to your oratrix *S. G.* in another bond or obligation also given by him the said *E. S.* unto your said oratrix, bearing date on or about the twenty-seventh day of the same *January* which was in the year of our Lord one thousand seven hundred and sixty-four, of the penalty of fourteen hundred pounds, conditioned for the payment of seven hundred pounds, together with interest for the same, on the twenty-seventh day of *August* one thousand seven hundred and sixty-five, whereon the whole principal money still remained due, together with all interest for the same, from the said twenty-seventh day of *January* one thousand seven hundred and sixty-four, and was also indebted to your oratrix, on simple contract, in the further sum of one hundred pounds and upwards, for monies lent and paid to and for the use of the said *E. S.* by your said oratrix: and the said *E. S.* was indebted to your orator *S. B.* in the sum of fifty pounds and upwards, for divers goods sold and delivered unto the said *E. S.* by your said orator, for which your said orator

delivered him a bill in his life-time, and which yet remains unsatisfied and unpaid; to your oratrix *A. W.* in the sum of twenty-two pounds and upwards, for butchers' meat sold and delivered unto him the said *E. S.* by your said oratrix, for which your oratrix also delivered him a bill in his life-time;— to your orator *T. W.* in the sum of twenty-four pounds and upwards, for wine sold and delivered to him the said *E. S.* by your said orator, for which your orator also delivered him a bill in his life-time, and which remains unpaid and unsatisfied;— to your orator *J. N.* in the sum of ten pounds and upwards, for the stabling and keeping of a horse for the said *E. S.* for which your orator likewise delivered him a bill in his life-time, and is still unpaid and unsatisfied; and he was as aforesaid likewise indebted to your orator *W. L.* his late servant, on a promissory note given by him unto your said orator, for the sum of twenty-five pounds twelve shillings, bearing date the eighteenth day of *November* one thousand seven hundred and sixty-four, which was for the balance of an account then stated between him and your said orator; besides which said several sums herein before mentioned to be due to your said orators and oratrices respectively, he the said *E. S.* was justly indebted to several other persons in divers other sums of money at the time of his death, to a considerable amount or value in the whole, which have not since been satisfied: And your orators and oratrices further shew unto your Lordship, that the said *E. S.* being thus indebted, and being possessed of a considerable personal estate, more than sufficient to satisfy all his just debts, the said *E. S.* departed this life on or about the — day of —, having first made his last will and testament in writing, bearing date on or about the first day of *January* which was in the year of our Lord one thousand seven hundred and fifty-eight, and thereby gave and bequeathed unto one *J. D.* by the name and description of *Mrs. D.* daughter to *Mr. L.* —, of — in the county of —, all his estate, both personal and temporal, except some small legacies therein mentioned; and therein reciting, that he had two thousand seven hundred pounds in the hands of *W. T. Esq.* of —, he gave and bequeathed the same to the said *Mrs. D.* for her own use and benefit, as therein is mentioned, being the only person that he esteemed and loved; and upon his decease, he having appointed no executor to his will, on or about the twenty-third day of *November* one thousand seven hundred and sixty-six, letters of administration with the will annexed, were granted out of the prerogative court of *Canterbury* to the said *J. D.* who thereupon possessed herself of all the said testator's personal estate, except a debt due from *T. F.* hereafter named as executor of his uncle *T. F.* who had received several considerable sums

sums of money, as hereafter is mentioned, out of the rents and profits of the said *E. S.* or of his father's estate and otherwise, for which he was and is accountable to the said *E. S.* And your orators and oratrixes farther shew, that the said *J. D.* having possessed herself of the said testator's personal estate as aforesaid, your orator and oratrixes applied themselves in a fair and friendly manner to be paid their said respective debts out of the same, as in equity and justice she ought to have done. But now so it is, may it please your Lordship, that the said *J. D.* combining and confederating to and with the said *T. F.* of ———, who is nephew and executor of *T. F.* lately deceased, and to and with divers other persons at present unknown to your orators and oratrixes, whose names, when discovered, your orators and oratrixes pray may be parties hereto, with apt words to charge them, how to defeat and defraud your orators and oratrixes in the premises, and the said *J. D.* being in low circumstances, your orators and oratrixes do charge, that she hath applied the said testator's personal estate which has come to her hands, or the greatest part thereof, to her own use, and has wasted the same, and neglects to pay any part thereof, to your orators and oratrixes, or to any or either of them, towards their or any, or either of their said respective demands, and sometimes pretends, that the said *E. S.* did not make such last will and testament as herein before is mentioned, and that administration with the will annexed, was not at or about the time herein before for that purpose mentioned, or at any other time, granted to her out of the prerogative court of *Canterbury* or out of any other ecclesiastical court; or if the same was so granted to her, that nevertheless she hath not, by virtue thereof, received any part of the said *E. S.*'s personal estate, at least not sufficient to pay your orators and oratrixes their said respective demands; and the said *J. D.* at other times pretends, that the said *E. S.* died possessed of little or no personal estate but what shall come from the hands of the said *T. F.* the nephew, as executor to the said *T. F.* his said uncle deceased, and that, until she shall receive what is due from him as aforesaid, she shall be incapable of paying your orators and oratrixes, or any or either of them, their said respective debts, or any part thereof; whereas she well knows, (as the truth is,) that she hath received very considerable assets from the estate from the said *E. S.* and more than sufficient to pay the whole of your orators and oratrixes demands, and particularly she has received from the said *W. T.* the said sum of two thousand seven hundred pounds, or some very great sum of money, and the said *J. D.* refuses to call the said *T. F.* to an account for a very large sum of money due from him relating thereto, which may prevent her accounting for the same, and deprive



your orators and oratrixes of their said just demands; and at other times she the said *J. D.* threatens to call in the said debt, and to apply it to her own private use, and declares she will not pay your orators and oratrixes said several demands, although she well knows the same, and every of them, to be justly due to your orators and oratrixes as aforesaid; and the said *T. F.* pretends, that neither he nor his said uncle *T. F.* was or were at any time indebted to the said *E. S.* whereas the contrary does plainly appear by a report made by Master *K.* one of the Masters of this honourable court, in a cause depending in this honourable court, wherein *C. D.* and others were plaintiffs, and the said *T. F.* and others were defendants, or in some other cause wherein the said *T. F.* was party; and that there was due to the said *E. S.* the sum of two thousand one hundred and six pounds five shillings and nine-pence half-penny, and the further sum of two hundred and thirty-two pounds sixteen shillings and nine-pence, making together the sum of two thousand three hundred and thirty-nine pounds two shillings and six-pence half-penny, or some such sum of money, which remains yet unpaid and unsatisfied; or the said report is to that or some such effect, and which the said *T. F.* has admitted to be true: And your orators and oratrixes aver and expressly charge, as the truth really is, that the said *T. F.* now is indebted to his said estate in that or some greater sum of money, and has received from his said uncle's estate more than sufficient to pay the said demand, though he sometimes denies the same; at other times he admits that he has received sufficient assets of his said uncle's to pay the said debts, but insists that he has paid the said *J. D.* all that was due to her said testator, and has a discharge or discharges for the same: whereas your orators and oratrixes insist, that the said *J. D.* has still a good subsisting demand on him for the same or other very large sum of money due to the said testator; but the said *T. F.* insists, he is only accountable to her for any debt due to her said testator, and threatens to pay her the same; in which case your orators and oratrixes would have little hopes of relief from the needy and insolvent circumstances of the said *J. D.* who, as your orator and oratrixes charge, has but a small support, except only what she got or expects to receive from the estate of the said *E. S.* All which actings and doings of them the said confederates are contrary to right, equity, and good conscience, and tend to your orators and oratrixes their apparent wrong and injury. **In tender consideration** whereof, and forasmuch as your orators and oratrixes witnesses, who could prove the truth of all and singular the premises aforesaid, are either dead, or gone into parts beyond the seas, remote and unknown to your orators and oratrixes, they your said orators and oratrixes are only

only and properly relievable in a court of equity, where matters of fraud and discovery are most properly cognizable: **To the end**, therefore, that the said *J. D. T. F.* and the rest of the confederates, when discovered, may upon their several and respective corporal oaths, true and perfect answer make to all and singular the premises, as fully and particularly as if the same were herein again repeated and interrogated, according to their and each of their knowledge, remembrance, and belief, and more particularly, that the said *J. D.* may set forth and discover, whether the said *E. S.* did not make such last will and testament, in writing, of such date, and to such purport and effect, as herein before for that purpose is mentioned, or any and what other will and testament, and of what other date, and to what other purport or effect; and whether she the said *J. D.* did not take out letters of administration with the said will annexed, and had the same granted to her out of the prerogative court of *Canterbury*, or out of any and what other ecclesiastical court, at or about the time herein before for that purpose mentioned, or at what other time; and whether, on the having such administration granted to her, she did not possess herself of so much of the said testator's personal estate, as was sufficient to pay your orators and oratrixes said demands, or how much thereof, and particularly whether she did not receive of and from the said *W. T.* the sum of two thousand seven hundred pounds, or any and what other sum of money; and may set forth, whether she does not refuse to call the said *T. F.* to an account for what is due from him to the estate of the said *E. S.* and whether she has not come to some, and to what private agreement relating thereto; and whether she does not sometimes threaten to call in the same and apply it to her own private use; and whether she does not know or believe, that your orators and oratrixes said demands are just and fair demands, or which of them are not, and for what reason she believes the same; and that the said *T. F.* may set forth, whether his said uncle was not indebted to the said *E. S.* in a very large sum of money, and whether he the said *T. F.* hath not been lately reported debtor to the said estate in the said several sums of two thousand one hundred and six pounds five shillings and nine-pence half-penny, and two hundred and thirty-two pounds sixteen shillings and nine-pence, or what other sum or sums of money; and may set forth what he knows or believes in his conscience is really due from him to the said *J. D.* as administratrix of the said *E. S.* and whether he has not sufficient assets of his said testator's to pay and satisfy the same; and that the said *J. D.* may set forth and discover, whether she hath not applied the assets come to her hands, or some and what part thereof, to her own use, and may admit assets sufficient

ficient to pay your orators and oratrixes their said respective demands, and that she may set forth a full, true, just, and particular account of the said testator's personal estate, with the natures, quantities, qualities, and true and full values thereof, and what hath come to her hands, custody or power, or to the hands, custody or power of any other person or persons in trust for her, or to her use, to her knowledge and belief, or with her privity, consent or procurement; and how she or they have applied the same; and that the said *J. D.* may pay and satisfy your orators and oratrixes said demands; and that in the mean time the monies in the hands of the said *T. F.* or so much thereof as shall be sufficient to pay and satisfy your orators and oratrixes said respective demands, with costs of this suit, may be stayed in his hands by injunction of this honourable court; and that in case the said *J. D.* shall not pay and satisfy your orators and oratrixes their said several and respective demands, that then the said *T. F.* may be decreed to pay and satisfy the same unto your orators and oratrixes out of the monies remaining in his hands, belonging or relating to the said *E. S.*'s personal estate; and that your orators and oratrixes may have such other and further relief in the premises, as to your Lordship shall seem meet. May it please your Lordship, &c.

*A Bill by Husband and Wife for a Bond-Debt to the Wife, while sole, against the Heir at Law and Widow, for an Account and Satisfaction out of the real and personal Estate of the Testator.*

To the Right Honourable ——— Lord High Chancellor of Great Britain.

**H**UMBLY complaining, shew unto your Lordship, your orator and oratrix *J. H.* of *K.* in the county of *C.* yeoman, and *J.* his wife, That on or about the 13th day of *February* which was in the year of our Lord 1767, your said oratrix *J.* (before her intermarriage with your orator,) advanced and lent unto *J. N.* late of *Orton* in the county of *C.* joiner, (since deceased,) the sum of ——— for securing the repayment whereof with interest, after the rate of ten-pence for every pound by the year, he the said *J. N.* did enter into one bond or writing obligatory, bearing date the said 13th day of *February* 1767, by which bond he the said *J. N.* by the name and description of *J. N. &c.* did acknowledge himself to be bound, and did bind himself, his heirs, executors, and administrators, unto your oratrix then *J. T.* by the name and description of, &c. in the sum of ——— of lawful money of *Great Britain*, with condition thereunder written to be void upon pay-



payment of the said sum of ——— with interest for the same as aforesaid, unto your oratrix by her then name of *J. T.* her executors, administrators, or assigns, upon the 2d day of *February* then next ensuing, or else the said bond or obligation was to be and remain in full force and virtue, as by the said bond or writing obligatory under the hand and seal of the said *J. N.* bearing date as aforesaid, and ready to be produced to this honourable court (relation being thereunto had) it doth and may more at large appear; and your orator and oratrix further shew unto your Lordship, that on or about the 17th day of *December* last, (and before any part of the said principal monies and interest due on the said bond was paid off or discharged,) the said *J. N.* departed this life, leaving *J. N.* his eldest son and heir at law, and *S. N.* his widow, and at the time of his death was not only seised in fee-simple of and in divers lands, messuages and tenements in the parish of *O.* and elsewhere in the said county of *C.* but likewise possessed, or otherwise well-intituled unto a considerable personal estate, consisting of beds, bedding, brasse, pewter, and all other sorts of household stuff; corn, hay, horses, cows, oxen, sheep, and other live cattle; ploughs, carts, and other implements of husbandry; money due upon bonds, bills and other specialties, and other debts due upon simple contract and accounts; after whose death they the said *J. N.* his son, and *S. N.* his widow, did not only immediately enter upon all and every the messuages, lands, tenements and real estate, (whereof the said *J. N.* deceased was so seised of and intitled unto at the time of his death,) but have also entered upon and possessed themselves of all the goods, chattels, and personal estate which he the said *J. N.* the father died possessed of, and which were much more than sufficient not only to have paid your oratrix her just debt, but all other the debts owing by the said *J. N.* at the time of his decease; and your orator *J. H.* having on or about the 23d day of *December* last intermarried with your oratrix *J. T.* he thereby became well intitled (in your oratrix's right) to the said debt of ——— and interest due upon the said bond, and hath therefore oftentimes in a friendly manner applied to the said *J. N.* and *S. N.* his mother, for payment of the said debt, which sometimes they promised to pay unto your orator and oratrix, as in justice and equity they ought. But now so it is, may it please your Lordship, that the said *J. N.* and *S. N.* his mother, combining, and confederating themselves together, and to and with divers persons as yet unknown to your orator and oratrix, whose names when discovered your orator and oratrix pray may be inserted in this their bill, with apt words to charge them as defendants, now to defraud and defeat your orator and oratrix of their said debt, they the said confederates do set up divers pretences to divide and swallow

up all the real and personal estate of the said *J. N.* the father; and having got into their, or one of their, hands, and custody, all the deeds, evidences, and writings relating to said real and personal estate by combination between them, pretend that the said *J. N.* the father did on or before his marriage, with the said *S.* his wife, by a settlement made in writing in consideration of the said marriage, and previous thereto, grant and convey all and singular the messuages, lands, tenements and hereditaments whereof he died seised or possessed, to the use of her the said *S.* for her life for her jointure, in case she should survive the said *J. N.* her husband, with remainder after their deaths to their first and all other their sons respectively in tail male, with covenants that the same were free from all incumbrances; and it is also alledged, that there are several incumbrances by mortgage of the said premises made by the said *J. N.* the father, precedent in point of time to the said marriage settlement, and that the said *S.* hath paid the principal debts out of her said late husband's personal assets which are come to her hands, and that she will take assignments of the said mortgages to herself, or some other in trust for her, to protect her jointure lands and the inheritance thereof settled, or pretended to be settled, upon her as aforesaid; and the said *J. N.* the son doth pretend and give out in speeches, that his said father was not at the time of his death seised of or intitled unto any lands or real estate whatsoever; whereas he the said defendant doth very well know (and so must confess) that his said father did, but a short time before his death, purchase of *J. B.* Esq; or his trustees, lords of the manor of *O.* in the said county of *C.* several messuages, and tenements, and also several parcels or shares of common ground improved and taken up, from the moors and wastes of the said manor, containing at least 150 acres of ground worth at least fifteen pounds an acre to be sold, which are now descended and come unto the said *J. N.* his son as his heir at law, and ought (as your orator and oratrix are advised) to be applied towards payment of the debts of the said *J. N.* the father; yet the same lying in common and intermixed with the lands and grounds of divers other persons, the said *J. N.* the son refuses to discover or make known to your orator and oratrix how or by what marks or bounds the said lands are meared or marked out, or in what particular places the same lie; and your orator and oratrix do expressly charge, that the personal assets of the said *J. N.* deceased, which have come to the hands and possession of the said *S. N.* is of the value of ——— at the least, the particulars and true value whereof, she refuseth to discover; and although your orator and oratrix have frequently applied to the said *S. N.* and *J. N.* her son, and desired an account of the real and personal estate left by her said husband, yet they do severally refuse to give

give your orator and oratrix any account thereof, or to make your orator and oratrix any satisfaction in the premises, but instead thereof, threatens to take all advantages which by the strict rules of law they are or shall be intitled unto, and thereby directly to deprive your orator and oratrix of all remedies for recovering their said just debt. All which actings, doings, and pretences of the said confederates, are not only contrary to all right, equity, and good conscience, but tend to the great loss and damage of your orator and oratrix. **In tender consideration** whereof, and forasmuch as your orator and oratrix's witnesses, who would prove the truth of all and singular the premises, are either gone into places remote beyond the seas, far distant from and unknown to your orator and oratrix, who cannot expect to have the benefit of their testimonies; and forasmuch as your orator and oratrix have no relief in the premises, save only by the favourably aid and assistance of this honourable court: **To the end** therefore, that the said S. N. and J. N. her son, and other the confederates, when discovered, may true and perfect answer make to all and singular the premises aforesaid, and that as fully and particularly as if the same were here again repeated and interrogated, and more especially that the said S. N. and J. N. her son, may answer and set forth, whether the said J. N. the father did not in his life-time, and at or about the time herein before for that purpose mentioned, borrow and take up at interest of and from your oratrix the sum of ——— aforesaid, and whether he did not, for securing the repayment thereof with interest, as herein before is mentioned, make and execute such bond, and payable at such time as herein before is set forth, or give any other and what security for the same; and whether, before payment thereof, the said J. N. the elder did not depart this life seized, possessed or intitled unto such real and personal estate as aforesaid, or other and what real and personal estate and effects; and that the said S. N. may set forth a true and perfect inventory of all and singular the goods and chattels of the said J. N. her deceased husband which is come to her hands, custody or power, or to the hands, custody, power, or possession, of any other person or persons in trust for her, or by her privity, or to her belief, and the particulars whereof the same consisted, and the real and true value of each particular, not by appraisement only, but as each particular hath been sold at, and if not sold, as it is in truth worth to be sold, and at such rates, as (if your orator pleases) he may take the same; and also what debts were owing to the said J. N. deceased, at the time of his death, and by whom, and whether the same were debts due upon bonds, bills, or any and what other securities or how otherwise due and owing, and whether she, or any by her order and privity, and who by name, have or hath received



ceived the same, or any and which of them, or any and what satisfaction for the same, and from whom and when, and what debts are yet standing out, and unpaid, and from whom due, and upon account, and also what debts owing by her said husband have been paid or compounded by her or her order, and may set forth each particular payment by her made, and to whom, when, and upon what securities, or how otherwise due; and that the said confederates, and particularly the said *J. N.* may set forth and discover what messuages, lands, or tenements his said father *J. N.* died seised or possessed of, or was intitled unto, and where the same be, and more especially whether the said *J. N.* his father, (or some one of his ancestors, and under whom he claimed) did not shortly before his death, and when, purchase of *J. B.* herein before named, or his trustees, lords of the manor of *O.* aforesaid, one or more messuages and tenements, and severall and how many acres or parcels of ground taken up from the moors and wastes of the said manor, and where the same lie, and particularly yearly value of each parcel or estate, and how the same is measured out and bounded, and whether he hath, or claims to have, any right, title, interest, claim and demand unto or out of the said premises, and by what deeds or conveyances, and may set forth the dates, parties' names and considerations therein contained, or the contents thereof; and that the said confederates may answer and set forth whether they do not know, or have heard and believe, that your orator intermarried with your oratrix in or about the month of *December* last, or at what other time; and that the said *S. N.* and *J. N.* her son may come to a just and fair account with your orator and oratrix, touching the real and personal estate and effects of the said *J. N.* deceased, and that your orator and oratrix may thereout be paid and satisfied all such monies as shall (on a fair and just account) appear to be justly due to them for principal and interest upon the said bond so given as aforesaid, unto your oratrix, and that your orator and oratrix may be further and otherwise relieved in the premises according to equity and good conscience; May it please your Lordship, &c.

*A Bill brought by a Creditor, as well on behalf of himself as other Creditors who shall come in and contribute to the Expence of the Suit, to be paid Debts, and for Sale of the Testator's real Estate, in case his personal Estate shall not be sufficient; and to perpetuate the Testimony of Witnesses.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *R. B. of B. &c.* as well on the behalf of himself as other the creditors of *B. A.* late of, *&c.* deceased, who shall come in and contribute to the expence of this suit, that the said *B. A.* being in his life-time, and at the time of his death, seised in fee of a considerable real estate, of which he had power to dispose, and also possessed of a considerable personal estate; and being so seised and possessed, he the said *B. A.* did duly make and publish his last will and testament in writing, bearing date on or about the nineteenth day of *January*, which was in the year of our Lord 1758, in the presence of three credible witnesses, who also subscribed their names as witnesses thereto in the said testator's presence; and the said testator did therein and thereby give and devise to his son-in-law *W. S.* and to his grandson *B. J.* and their heirs, all and every his messuages, lands, tenements, and hereditaments whatsoever; *In trust* to sell and dispose of the same, and by the monies arising by such sale to pay all his just debts; and the overplus (if any), and also all his goods, chattels, rights, credits, and personal estate, he gave to the said *W. S.* and *B. J.* equally to be divided between them, and made them executors of his said will. And your orator further sheweth, that the said testator, soon after making of his said will, departed this life (*to wit*) on or about the — day of — which was in the year of our Lord 17 —, without altering or revoking the same, and the said executors, or one of them, duly proved the same, and undertook the burthen of the execution thereof, as by the said will and probate, relation being thereunto had, may more fully and at large appear: And your orator further sheweth unto your Lordship, that the said *B. A.* was indebted to your orator in the sum of forty pounds by note of his hand, bearing date on or about the twentieth day of *February* 1756, whereby the said testator promised to pay your orator, or his order, the said sum of forty pounds, with lawful interest for the same, upon demand, for value received, as by the said promissory note under the hand of the said *B. A.* now in your orator's custody ready to be produced, and to which your orator craves leave to refer, may appear. And the said testator was also indebted to several other persons in divers considerable sums of money. And your orator sheweth unto your Lordship, that  
upon

upon the death of the said *B. A.* the said *W. S.* and *B. J.* by virtue of, or under colour of the said will, entered into the receipts of the rents and profits of all the said real estate of the said *B. A.* and also possessed themselves of all the goods, chattels, rights, credits, and personal estate of the said testator of a very considerable value, and much more than will be sufficient to pay and discharge all the just debts of the said testator; and your orator hath several times applied himself to the said *W. S.* and *B. J.* for a satisfaction of the said demand; But the said *W. S.* and *B. J.* combining and confederating to and with *W. J.* and *E.* his wife (which said *E.* is only daughter and heir at law of the said testator), and to and with divers other persons at present unknown to your orator, whose names when discovered your orator prays may be made parties hereto, with apt words to charge them, give out and pretend, that they have several claims upon the said estates, by means whereof your orator is delayed and prevented from receiving his debt or any part thereof; and sometimes the said executors admit the said testator's personal estate will be sufficient to pay all his just debts, but insist that they have not been able to collect or get in the same, and therefore cannot give your orator any account thereof, or make him any satisfaction for his said debt; and at other times the said executors pretend that the said testator's personal estate is very small and inconsiderable, and is not near sufficient to pay his just debts; and the said *W. J.* and *E.* his wife do insist that the said testator's personal estate is more than sufficient to pay all his just debts, and therefore they insist that the said real estate ought not to be sold, and refuse to join in the sale of the said estate, pretending that the said will was not duly executed, and that therefore the same descended to the said *E. J.* as heir at law to the said testator. All which actings and doings of the said confederates are contrary to equity and good conscience, and tend to the great wrong and injury of your orator, who is properly relievable in this honourable court. To the end, therefore, that the said *W. S. B. J. J. W.* and *E.* his wife may true and perfect answer make to all and singular the matters and premises as fully and particularly as if the same were here again repeated and interrogated, and particularly that they may set forth whether the said *B. A.* was not in his life-time, and at the time of his death, seised in fee or otherwise, of and in some good estate of inheritance of a considerable, or what real estate, and whereof he had a full power to dispose, and whether he the said testator did not make and duly execute such will, and of such date as herein before set forth, or any other and what will, and whether he was not of sound and disposing mind, memory, and understanding, at the time of making and publishing his said last will, and whether the witnesses to the said will did not duly attest and subscribe their names as witnesses thereto in the presence



sence of the said testator, and when he died; and that the said confederates may set forth, whether the said testator was not in his life-time, and at the time of his death, indebted to your orator in the manner herein before set forth, or in any other and what manner, as they know, have heard, or believe; and that the said executors may set forth, whether they, or either and which of them, have or hath, since the death of the said testator, proved the said will, and got into possession of all the personal estate of the said testator, and also entered upon the receipt of the rents and profits of the real estate, and may either admit assets sufficient to pay the demands of your orator, or otherwise may set forth a true and particular account of the said testator's personal estate, and what the same did or doth consist of, with the true and real value thereof, and of every part thereof, and what part thereof hath come to the hands, custody, or power of them the said confederates, or to the hands, custody, or power of any other person or persons, and whom by them, or by or with their or either of their order or privy, and for their or either of their use; and may set forth how and in what manner they have paid, applied, or disposed of the same, and of every part thereof; and that the said confederates may likewise set forth a full, true, and particular account of the said real estate so devised to be sold, and where the same lies, together with the names of the several persons in whose tenure the same now is, and ever since the death of the said testator hath been, together with the true and real annual rents and values thereof; and may set forth an account of the several sums of money which they or any other person or persons, and who, for their or either of their use, have or hath received out of, or by the rents and profits of the said real estates since the death of the said testator; and that the said confederates may set forth what right, title, interest, property, claim, or demand, they or any, and which of them respectively have, or pretend to have or claim to the said real or personal estates of the said testator; and that in case the said personal estate of the said testator shall not be sufficient to pay and satisfy your orator's said demands, that then the said real estate may be sold, or so much thereof as shall be necessary; and that out of the money arising by such sale, your orator and others the creditors of the said testator, who shall come in and contribute to the expences of this suit, may be paid their said debts with interest and costs, and that all proper parties may join in the sale of the said real estate in such manner as this honourable court shall direct, and that the several witnesses to the said will may be examined as to the execution thereof, and their testimony perpetuated; and that your orator may be further and otherwise relieved in all and singular the premises, as the nature and circumstance of his case shall require, and as to your Lordship shall seem most meet; May it please your Lordship, &c.

*A Bill to secure a Jointure, and to supply a defective Execution of a Power.*

**H**UMBL Y complaining, sheweth unto your Lordship, your oratrix *M. H.* the widow and relict, and also the sole administratrix and residuary legatee named in the last will and testament of *E. H.* of —, in the county of —, Esq. your oratrix's late husband, deceased, That by indentures of lease and release bearing date respectively, the lease the twenty-second, and the release the twenty-third day of *July*, which was in the year of our Lord 1715, the release being *quincupartite*, and made, or mentioned to be made, between your oratrix's late husband by his then name, and addition of *E. H.* of —, in the county of —, Esq. and *M. H.* only son and heir apparent of the said *E. H.* of the first part, and *A. H.* of *C.* in the county of —, widow, relict, and devisee for life of *M. H.* late of — afore said, Esq. deceased, and *R. W.* spinster, one the daughters of Sir *J. W.* late of —, in the county of —, Bart. deceased, and niece of the said *A. H.* of the second part, *W. H.* of —, in the county of —, Esq. and *J. A.* of *Gray's Inn*, in the county of *Middlesex*, Esq. of the third part, Sir *C. P.* of —, *London*, Knight, and *A. K.* of the parish of —, *London*, Gent. of the fourth part, and *T. S.* of —, in the county of *Middlesex*, Gent. of the fifth part, it is witnessed, that they the said *E. H.* and *M. H.* for the considerations therein mentioned, and for settling the premises therein and hereafter mentioned, did grant and release (amongst other things) all that manor, or reputed ranor or lordship, and farms of *D. B.* in —, in the county of *Kent*, with the rights, members, and appurtenances thereof, and all other manors, or reputed manors, farms, lands, tenements, and hereditaments whatsoever of them the said *E. H.* and *M. H.* or either of them in *D. B.* or elsewhere in the county of *Kent*, to hold to the said *W. H.* and *J. A.* their heirs and assigns; and the said premises are thereby declared to be and stand limited to the said trustees, to the use and behoof of the said *E. H.* for his life without impeachment of waste, with remainder to the said trustees during the life of the said *E.* to preserve contingent remainders; and after the deceases of the said *E. H.* and of dame *E.* his then wife, then to the use of the said *M. H.* and the heirs of his body, with remainder to the first and every other son and sons of the said *E. H.* by the said dame *E.* or any other his after-taken wife or wives, in tail-male, remainder to the use of *F. H.* *A. H.* and *E. H.* daughters of the said *E. H.* and all and every other the daughters of the said *E. H.* as tenants in common, and not as jointenants, and the heirs of their bodies lawfully issuing; and for want of such issue of any such daughter or daughters,

daughters, then as to the part or parts of her or them so dying without issue, to the use of the other and others of the said daughter and daughters and the heirs of their bodies by way of cross-remainders, till all and every such daughter and daughters are dead without issue, with remainder to the said *M. H.* his heirs and assigns for ever: And your oratrix further sheweth, that it is provided, declared, and agreed by the said indenture of release, if it should happen the said dame *E. H.* should die in the life-time of the said *E. H.* and he should survive her, and should afterwards marry any other woman or women, then and in such case it should be lawful for him to settle and assure so much of the said manor or reputed manor, or lordship and premises, as should be of, and amount to, or should not exceed the value of six hundred pounds *per annum*, for a jointure and provision for such after-taken wife, or wives, for her or their natural life or lives only, as by the said in part recited indenture (executed by the said *E.* and *M. H.* and others the parties thereto) now in the custody or power of the said *M. H.* and to which for greater certainty as to the exact date and contents thereof, your oratrix hereby craves leave to refer herself, relation being thereunto had, may more fully appear. And your oratrix further sheweth, that by indentures of lease and release bearing date, the lease the twenty-fourth, and the release the twenty-fifth day of *May*, in the year of our Lord 1725, the release being tripartite, and made between the said *E. H.* of the first part, your oratrix by her then name and addition of *M. C.* spinster, one of the daughters of Sir *C. C.* late of — in the county of —, Bart. deceased, of the second part, Sir *R. W.* of —, in the county of —, Bart. and *C. W.* of — *London*, Esq. of the third part, after reciting the said indenture of lease and release, of the twenty-second and twenty-third days of *July* 1715, and particularly the said power thereby reserved; and also after reciting that a marriage was then intended shortly to be had and solemnized between the said *E. H.* and your oratrix, it is witnessed, that in consideration of the said intended marriage, and of the sum of two thousand pounds, being the marriage portion of your said oratrix paid to the said *E. H.* before the sealing and delivering thereof the receipt whereof is thereby acknowledged, and for divers other good causes and considerations therein mentioned, he the said *E. H.* did grant, bargain, sell, release, and confirm, unto the said Sir *R. W.* and *C. W.* and to their heirs, all that the said manor and premises, with the appurtenances herein before particularly set forth, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, to hold the same, and every part thereof, unto the said Sir *R. W.* and *C. W.* their heirs and assigns, to the use and behoof of the said *E. H.*



*A Bill to secure a Jointure, and to supply a defective Execution of a Power.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *M. H.* the widow and relict, and also the sole administratrix and residuary legatee named in the last will and testament of *E. H.* of —, in the county of —, Esq. your oratrix's late husband, deceased, That by indentures of lease and release bearing date respectively, the lease the twenty-second, and the release the twenty-third day of *July*, which was in the year of our Lord 1715, the release being *quincupartite*, and made, or mentioned to be made, between your oratrix's late husband by his then name, and addition of *E. H.* of —, in the county of —, Esq. and *M. H.* only son and heir apparent of the said *E. H.* of the first part, and *A. H.* of *C.* in the county of —, widow, relict, and devisee for life of *M. H.* late of — aforesaid, Esq. deceased, and *R. W.* spinster, one the daughters of Sir *J. W.* late of —, in the county of —, Bart. deceased, and niece of the said *A. H.* of the second part, *W. H.* of —, in the county of —, Esq. and *J. A.* of *Gray's Inn*, in the county of *Middlesex*, Esq. of the third part, Sir *C. P.* of —, *London*, Knight, and *A. K.* of the parish of —, *London*, Gent. of the fourth part, and *T. S.* of — in the county of *Middlesex*, Gent. of the fifth part, it is witnessed, that they the said *E. H.* and *M. H.* for the considerations therein mentioned, and for settling the premises therein and hereafter mentioned, did grant and release (amongst other things) all that manor, or reputed manor or lordship, and farms of *D. B.* in —, in the county of *Kent*, with the rights, members, and appurtenances thereof, and all other manors, or reputed manors, farms, lands, tenements, and hereditaments whatsoever of them the said *E. H.* and *M. H.* or either of them in *D. B.* or elsewhere in the county of *Kent*, to hold to the said *W. H.* and *J. A.* their heirs and assigns; and the said premises are thereby declared to be and stand limited to the said trustees, to the use and behoof of the said *E. H.* for his life without impeachment of waste, with remainder to the said trustees during the life of the said *E.* to preserve contingent remainders; and after the deceases of the said *E. H.* and of dame *E.* his then wife, then to the use of the said *M. H.* and the heirs of his body, with remainder to the first and every other son and sons of the said *E. H.* by the said dame *E.* or any other his after-taken wife or wives, in tail male, remainder to the use of *F. H.* *A. H.* and *E. H.* daughters of the said *E. H.* and all and every other the daughters of the said *E. H.* as tenants in common, and not as jointenants, and the heirs of their bodies lawfully issuing; and for want of such issue of any such daughter or daughters,

daughters, then as to the part or parts of her or them so dying without issue, to the use of the other and others of the said daughter and daughters and the heirs of their bodies by way of cross-remainders, till all and every such daughter and daughters are dead without issue, with remainder to the said *M. H.* his heirs and assigns for ever: And your oratrix further sheweth, that it is provided, declared, and agreed by the said indenture of release, if it should happen the said dame *E. H.* should die in the life-time of the said *E. H.* and he should survive her, and should afterwards marry any other woman or women, then and in such case it should be lawful for him to settle and assure so much of the said manor or reputed manor, or lordship and premises, as should be of, and amount to, or should not exceed the value of six hundred pounds *per annum*, for a jointure and provision for such after-taken wife, or wives, for her or their natural life or lives only, as by the said in part recited indenture (executed by the said *E.* and *M. H.* and others the parties thereto) now in the custody or power of the said *M. H.* and to which for greater certainty as to the exact date and contents thereof, your oratrix hereby craves leave to refer herself, relation being thereunto had, may more fully appear. And your oratrix further sheweth, that by indentures of lease and release bearing date, the lease the twenty-fourth, and the release the twenty-fifth day of *May*, in the year of our Lord 1725, the release being tripartite, and made between the said *E. H.* of the first part, your oratrix by her then name and addition of *M. C.* spinster, one of the daughters of Sir *C. C.* late of — in the county of —, Bart. deceased, of the second part, Sir *R. W.* of —, in the county of —, Bart. and *C. W.* of — *London*, Esq. of the third part, after reciting the said indenture of lease and release, of the twenty-second and twenty-third days of *July* 1715, and particularly the said power thereby reserved; and also after reciting that a marriage was then intended shortly to be had and solemnized between the said *E. H.* and your oratrix, it is witnessed, that in consideration of the said intended marriage, and of the sum of two thousand pounds, being the marriage portion of your said oratrix paid to the said *E. H.* before the sealing and delivering thereof the receipt whereof is thereby acknowledged, and for divers other good causes and considerations therein mentioned, he the said *E. H.* did grant, bargain, sell, release, and confirm, unto the said Sir *R. W.* and *C. W.* and to their heirs, all that the said manor and premises, with the appurtenances herein before particularly set forth, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, to hold the same, and every part thereof, unto the said Sir *R. W.* and *C. W.* their heirs and assigns, to the use and behoof of the said *E. H.*

until the said intended marriage, and after the solemnization thereof, to the use of the said Sir *R. W.* and *C. W.* and their heirs, for and during the natural life of your oratrix, upon trust that they and the survivor of them, or the heirs or assigns of such survivor, should yearly and every year during the joint lives of the said *E. H.* and your oratrix out of the rents, issues and profits of the said premises, pay or cause to be paid into the proper hands of your oratrix, or into the hands of such other person or persons as she your said oratrix should direct and appoint, the clear sum of one hundred pounds by four equal payments in the year, in manner in the said indentures mentioned to and for your said oratrix's sole, separate, and peculiar use and benefit, and not to be subject to the control, debts, judgments, or intermeddling of the said *E. H.* but the act and receipt, acts and receipts of your oratrix alone, and notwithstanding her coverture, or of such person as your oratrix should appoint to receive the same, to be a good and sufficient discharge for the same; and after the decease of the said *E. H.* in case your oratrix should survive him, upon trust that they the said trustees should, out of the rents, issues, and profits of the said premises, pay or cause to be paid unto your oratrix, yearly and every year during her natural life, the clear and full sum of three hundred pounds by four equal payments in the year, in manner therein mentioned, which is thereby agreed and declared to be in full for her jointure, and in lieu and full recompence, satisfaction and discharge, of and from her dower or thirds at common law, and all and every right and title of dower which your oratrix could or might claim or be intitled unto out of any of the manors, lands, tenements, or hereditaments whatsoever of him the said *E. H.* or which he at any time then after should happen to be seised of or intitled unto; and upon further trust that the said trustees should and would permit and suffer the said *E. H.* during his natural life, and such other person or persons as should after his death be intitled to the remainder of the rents, issues, or profits of the said premises, or would have been so intitled if the said indenture had never been made, from and after payment of the said yearly sums of one hundred pounds and three hundred pounds respectively, to take and receive to his and their own proper use and uses respectively, all and every the rest, residue, and remainder of the rents, issues, and profits of the said premises. Provided nevertheless, and it is declared and agreed by the same indenture of release, that in case the said *E. H.* and such other person and persons as should be intitled to the next and immediate remainder or reversion of the said premises, should yearly and every year pay or cause to be paid unto your oratrix, for and during her natural life, the said yearly sums of one hundred pounds and three hundred pounds respectively, as your oratrix should be intitled thereto, and in



such manner as the same were respectively made payable as aforesaid, then no use or benefit should be made of the estate thereby made and granted; the same being only intended to be made use of in default of such payment by the said *E. H.* and such other person and persons as should be intitled to the remainder or reversion of the said premises as aforesaid: and the said *E. H.* for himself, his heirs, executors, and administrators, did by the said indenture covenant, promise and agree to and with the said Sir *R. W.* and *C. W.* their executors, administrators, and assigns, that he the said *E. H.* had full power, good right, and lawful and absolute authority to grant, release, and convey unto the said Sir *R. W.* and *C. W.* and their heirs, all and singular the aforesaid premises in manner aforesaid; and that the same were sufficient in value for the uses, intents, and purposes aforesaid, and that it should and might be lawful to and for them the said Sir *R. W.* and *C. W.* and their heirs, to hold and enjoy the same accordingly, without the lawful let, suit, trouble, denial, hindrance, molestation, disturbance, or interruption of him the said *E. H.* his heirs or assigns, or any other person or persons lawfully claiming or to claim by, from or under him, them or any of them, and also that the said *E. H.* should and would, at any time during his life, make, do, suffer, and execute all such further and other lawful and reasonable acts, devises, and assurances for the more perfect assuring the said premises, with their appurtenances, unto them the said Sir *R. W.* and *C. W.* and their heirs and assigns, for and during the natural life of your oratrix, upon the trusts and to the intents and purposes aforesaid, as they or their counsel should advise or require, as by one part of the said recited indenture duly executed by the said *E. H.* and now in the custody of your oratrix ready to be produced as this honourable court shall direct, may more fully and at large appear, and to which for greater certainty, as to the exact date and contents thereof, your oratrix hereby craves leave to refer herself. And your oratrix further sheweth, that soon after the executing of the last in part recited indentures in the said year of our Lord 1725, the said marriage between the said *E. H.* and your oratrix was accordingly had and solemnized; and your oratrix further sheweth, that by indentures of lease and release bearing date, the lease the 27th, and the release the 28th day of *September* in the year of our Lord 1735, the release being tripartite, and made between the said *E. H.* of the first part, your oratrix *M. H.* then wife of the said *E. H.* and then late *M. C.* spinster, of the second part, the said Sir *R. W.* Bart. and the said *C. W.* Esq; of the third part, after reciting the said herein before in part recited indenture of lease and release, dated the 22d and 23 days of *July* 1715, and the proviso therein contained for the enabling

the said *E. E.* in case he should happen to survive his then wife dame *E. H.* to settle and assure so much of the said manor and premises therein and herein before mentioned as should amount to, and should not exceed six hundred pounds *per annum* for a jointure and provision for such wife or wives as he should afterwards marry, and after reciting (as the truth was and is) that the said dame *E.* was dead, and the said *E. H.* did her survive, and had then lately intermarried with your oratrix, and also after reciting the said therein before in part recited indentures of lease and release, dated the twenty fourth and twenty fifth days of *May* 1725 then last, and that the said intended marriage had been solemnized between the said *E. H.* and your oratrix, and also after further reciting that the said *E. H.* had not then made any larger or other provision for your oratrix than as above mentioned, nor then fully executed his said power of making a jointure of or to such yearly value for any other after-taken wife, in case of his surviving the same dame *E.* his late wife deceased, and being therefore minded to make a further jointure and provision for your oratrix, in case she survived him, by fully executing the power to him given and reserved in that behalf by the said herein before recited indenture quinquupartite of release dated the said twenty-third day of *July* 1715, it is witnessed, that in consideration of the premises, and of the great love and affection he had and bore to your said oratrix his then wife, and for making her a further jointure and provision for her life, in case your oratrix should survive him, and for the fully executing and completing his said power, and for divers other considerations therein mentioned, he the said *E. H.* did grant, bargain, sell, release, ratify, and confirm unto the said Sir *R. W.* and *C. W.* and to their heirs, all that the said manor and premises herein before particularly set forth, with the appurtenances, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, to hold the said premises, and every part thereof, to them the said Sir *R. W.* and *C. W.* their heirs and assigns, for and during the natural life of your said oratrix, upon trust that they the said Sir *R. W.* and *C. W.* and the survivor of them, or the heirs or assigns of such survivor, should and would from and after the decease of your oratrix's said husband *E. H.* in case your said oratrix should him survive, out of the rents, issues and profits of the said premises, pay or cause to be paid unto your oratrix yearly, and every year during her natural life, the further clear and full sum of three hundred pounds by equal payments in manner as in the said indenture mentioned; and upon further trust, that they the said trustees should and would permit and suffer the said *E. H.* during his natural life and such person or persons as should after his death be entitled to the remainder of the rents, issues, and profits of the said premises,

premises, or would have been so entitled if the said indentures had never been made, from and after payment of the said further clear and full yearly sum of three hundred pounds, to take and receive to his and their proper use and uses respectively, all and every the rest, residue and remainder of the rents, issues and profits of the said premises: Provided nevertheless, and it is thereby declared and agreed by the said indenture of release, that in case the said *E. H.* and such other person and persons as should be intitled to the next and immediate remainder or reversion of the said premises, should yearly and every year pay or cause to be paid unto your oratrix, for and during her natural life, the said further clear and yearly sum of three hundred pounds, in such manner as the same was made payable as aforesaid, then no use or benefit should be made of the estate thereby made and granted; the same being only intended to be made use of in default of such payment by the said *E. H.* and such other person and persons as should be entitled to the remainder or reversion of the said premises as aforesaid; and the said *E. H.* for himself, his heirs, executors and administrators, did also by the said indenture covenant, promise, grant and agree, with the said Sir *R. W.* and *C. W.* that the said *E. H.* had full power, good right, lawful and absolute authority to grant, release and convey unto the said Sir *R. W.* and *C. W.* and their heirs, all and singular the aforesaid premises, in manner aforesaid, and that the same were sufficient in value for the uses, intents and purposes aforesaid; and that it should and might be lawful, to and for them the said *R. W.* and *C. W.* and their heirs, to hold and enjoy the same accordingly, without the let, suit, trouble, denial, eviction, ejection, molestation, disturbance or interruption of him the said *E. H.* his heirs or assigns, or any other person lawfully claiming or to claim by, from, or under him, them, or any of them, and also that the said *E. H.* should and would at any time then after, during his life, make, do, suffer and execute, all such further and other lawful and reasonable acts, devises, and assurances, to the more perfect assuring the said premises with their appurtenances unto them the said Sir *R. W.* and *C. W.* and their heirs and assigns, for and during the natural life of your oratrix, upon the trusts, and to the intents and purposes aforesaid, as they or their counsel should advise or require, as by one part of the said in part recited indenture duly executed by the said *E. H.* and now in the custody of your oratrix, and ready to be produced, as this honourable court shall direct, relation being thereunto had, may more fully and at large appear; and to which, for greater certainty as to the exact date and contents thereof, your oratrix humbly craves leave to refer herself. And your oratrix further sheweth, that by indentures of lease and release, bearing date respectively, the lease the fourteenth,



and release the fifteenth days of *January* in the year of our Lord 1731, the release being tripartite, and made or mentioned to be made between the said *E. H.* your oratrix's said late husband of the first part, your said oratrix of the second part, and the said *R. W.* and *C. W.* of the third part, after reciting the said herein before in part recited indenture of lease and release dated the twenty-second and twenty-third days of *July* 1715, and the proviso therein contained for enabling the said *E. H.* in case he should happen to survive his then wife dame *E.* to settle so much of the said manor and premises therein and herein before mentioned, as should amount to, and should not exceed six hundred pounds *per annum*, for a jointure and provision for such wife or wives as he should afterwards marry; and after reciting that the said *E. H.* was dead, and also after reciting the said herein before in part recited indentures of lease and release dated the twenty-first and twenty-fifth days of *May* 1715, and also after reciting that the said marriage therein mentioned to be intended to be had and solemnized between the said *E. H.* and your oratrix, had been had and solemnized, and also after reciting the said recited indenture of lease and release dated the twenty-seventh and twenty-eighth days of *September* 1725, it was and is witnessed, that in consideration of the premises, and for the further, better and more effectual securing the payment of the said several and respective yearly sums of one hundred pounds, three hundred pounds, and three hundred pounds, in and by the said several herein before in part recited indentures mentioned and secured to be paid to your oratrix, as a jointure and provision for her life, in case she your said oratrix should happen to survive the said *E. H.* and for divers other considerations therein mentioned, he the said *E. H.* did grant, bargain, sell, release, ratify and confirm unto the said Sir *R. W.* and *C. W.* and their heirs, all that the manor and premises, with the appurtenances herein before particularly set forth, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part thereof, unto the said *R. W.* and *C. W.* and their heirs and assigns, for and during the natural life of your oratrix, upon trust that they and the survivor of them, or the heirs or assigns of such survivor, should yearly and every year during the joint lives of the said *E. H.* and your oratrix, out of the rents, issues and profits of the said premises, pay or cause to be paid into the proper hands of your oratrix, or into the hands of such other person or persons as the your said oratrix should direct and appoint, the clear sum of one hundred pounds, by four equal payments in the year, in the manner in the said indenture mentioned, to and for your oratrix's sole, separate and particular use and benefit, and not to be subject to the control, debts, engagements or intermeddling of the said *E. H.* but the act and receipt, acts and receipts

receipts of your oratrix alone, notwithstanding her coverture, or of such person as your oratrix should appoint to receive the same, to be a good and sufficient discharge for the same; and after the decease of the said *E. H.* in case your oratrix should survive him, upon trust that they the said trustees should out of the rents, issues and profits of the premises, pay or cause to be paid unto your oratrix yearly and every year during her natural life, the clear and full sum of six hundred pounds by four equal payments in the year, in the manner therein mentioned, which is thereby declared and agreed to be in full for her jointure, and in lieu and full recompense, satisfaction and discharge of and for her dower or thirds at common law, and all and every right and title of dower which your oratrix could or might claim or be entitled unto out of any of the manors, lands, tenements or hereditaments whatsoever of him the said *E. H.* or which at any time then after should happen to be seised of or intitled unto; and upon further trust that they the said trustees should and would permit and suffer the said *E. H.* during his life, and such other person or persons as should after his death be intitled unto the remainder of the rents, issues and profits of the said premises, or would have been so intitled if the said indenture had never been made, from and after payment of the said yearly sum of one hundred and six hundred pounds respectively, to take and receive to his and their own proper use and uses respectively all and every the rest, residue, and remainder of the rents, issues and profits of the said premises: Provided nevertheless, and it is declared and agreed by the said now recited indenture of release, that in case the said *E. H.* and such other person and persons as should be limited to the next and immediate remainder and reversion of the said premises, should yearly and every year pay or cause to be paid unto your oratrix, for and during her natural life, the said yearly sum of one hundred pounds and six hundred pounds respectively, in such manner as the same is made payable as aforesaid, then no use or benefit should be made of the estate thereby; and by the above recited indentures of lease and release respectively made and granted to the said Sir *R. W.* and *C. W.* or either of them, the same being only intended to be made use of in default of such payments by the said *E. H.* or such other person or persons as should be intitled to the remainder or reversion of the said premises as aforesaid; and it is by the said now recited indenture declared and agreed, that the said above recited indenture of settlement on your oratrix, and also the said now recited indenture was and were made to secure to your oratrix the said sum of one hundred pounds *per ann.* during the joint lives of the said *E. H.* and your oratrix; and after the decease of the said *E. H.* in case your oratrix should him survive, to secure to your oratrix a jointure not exceeding in the whole six hundred

dred pounds *per annum*, according to the power reserved and given to the said *B. H.* in and by the first above recited indentures of settlement. And the said *E. H.* for himself, his heirs, executors, and administrators, did by the now recited indenture of release and covenant, promise and grant to and with the said Sir *R. W.* and *C. H.* their executors, administrators, and assigns, that he the said *E. H.* had full power, good right, and lawful and absolute authority to grant, release and convey unto the said Sir *R. W.* and *C. W.* and their heirs, all and singular the aforesaid premises in manner aforesaid; and that the same were sufficient in value for the uses, intents, and purposes aforesaid; and that it should and might be lawful to and for them the said Sir *R. W.* and *C. W.* and their heirs, to hold and enjoy the same accordingly, without the lawful let, suit, trouble, denial, eviction, ejection, molestation, disturbance or interruption of him the said *E. H.* his heirs or assigns, or any other person or persons lawfully claiming or to claim by, from, or under him, them or any of them; and also that the said *E. H.* should and would at any time then after during his life make, do, acknowledge, suffer, and execute such further and other reasonable acts, devises, and assurances for the more perfect assuring the said premises with their appurtenances unto them the said Sir *R. W.* and *C. W.* and their heirs and assigns, during the natural life of your oratrix upon the trusts, and to the intents and purposes aforesaid, as they or their counsel should advise or require, as by one part of the said indentures duly executed by the said *E. H.* and now in the custody of your oratrix ready to be produced, as this honourable court shall direct, relation being thereto had, may more fully and at large appear, and to which for greater certainty as to the exact dates and contents thereof your oratrix hereby craves leave to refer herself. And your oratrix further sheweth, that on or about the thirteenth day of *October* in the year of our Lord 1736, the said *E. H.* your oratrix's late husband departed this life, leaving issue the said *M. H.* his only son and heir at law. Your oratrix further sheweth unto your Lordship, that upon or immediately after the said testator's death the said *M. H.* entered upon and took possession of all and singular the said manors and premises so settled as aforesaid, which your oratrix permitted him to do, well hoping that he the said *M. H.* would either have paid or caused to have been paid unto your oratrix, or unto such person or persons as she should appoint, the said clear yearly sum of six hundred pounds in manner as the same is directed to be paid by the said several herein before recited indentures of settlement, or some or one of them, or else that he would have set out and conveyed to your oratrix, or to such person or persons as she should appoint, so much and such part of the said premises as would make six hundred pounds



pounds a year for your oratrix's jointure, especially as it does manifestly appear (as your oratrix doth charge and insist from the said indentures) that it was the intent and meaning of your oratrix's said late husband, and of all the parties to the said indentures, that your oratrix should have such jointure made to her as he was enabled to make by virtue of the said first mentioned indentures of lease and release of the 22 & 23 of *July 1715*. But now so it is, may it please your Lordship, that the said *M. H.* hath entered into a combination and confederacy with the said *Sir R. W.* and *C. W.* and with divers other persons at present unknown to your oratrix, whose names when discovered your oratrix prays may be inserted in this her bill, with apt words to charge them as parties hereto, how to injure your oratrix in the premises, and to deprive and defeat your oratrix of the benefit of the said several indentures of settlements; and in order thereto the said *M. H.* and his said confederates sometimes pretend that no such indentures of settlement as are herein before mentioned to bear date on the said twenty-second and twenty-third days of *July 1715*, were ever made and executed; or that if the same were so made and executed, yet that there is no such proviso contained therein for enabling the said testator *E. H.* (your oratrix's late husband) to settle or assure so much of the said premises herein contained as should be of and amount to, or should not exceed the value of six hundred pounds a year, for a jointure and provision for such wife or wives as he should then after marry, in case he should happen to survive his wife *E. H.*; whereas the said *M. H.* and his said confederates well know the truth to be, and your oratrix doth expressly charge that such indentures of such date and contents, and with such proviso therein contained as herein before mentioned, were duly made and executed. And at other times the said *M. H.* and his said confederates will admit the same, and will also admit that such several other indentures aforesaid were duly made and executed: But then he and they insist that the same are not a due and legal execution by the said *E. H.* of the power given to him by the said proviso in the before mentioned indentures of settlement of the twenty-second and twenty-third days of *July 1715*, such power not having been, as he and they say, well pursued by the said *E. H.* in regard that he ought not, and hath no power to settle any sum of money upon your oratrix, by way or in the nature of a rent-charge, but only to settle and convey so much of the said premises as would amount to six hundred pounds a year by way of jointure for your oratrix; and particularly as to the said deeds, made in *September 1725*, and in *January 1731*, he the said *M. H.* says and insists, that they being made after marriage are voluntary and fraudulent as against him; whereas your oratrix doth charge and insist that

all the said deeds are good and valid deeds, and that as the said first mentioned deed of settlement, to which the said *M. H.* was a party, gave your oratrix's said late husband a power of making a jointure of six hundred pounds a year as aforesaid, without mentioning whether the said jointure should be made before or after marriage, he might and had authority to execute such power either before or after marriage, which fact the said *M. H.* will at other times admit: But then he insists, that the said several settlements so made for your oratrix's benefit as aforesaid are void, by the strict rules of the common law, as not pursuing the said power, and that the same being void at law ought not to be set up or insisted upon in a court of equity; whereas your oratrix doth charge and insist, that supposing (but not admitting) the said settlements to be void or voidable by the strict rules of the common law, yet your oratrix's said late husband having by the said settlements manifestly declared his intention of securing to your oratrix a jointure of six hundred pounds a year, according to his said power, the same ought to be secured to your oratrix accordingly by the said *M. H.* out of the said premises; and if there is any defect in the execution of the said power by your oratrix's said late husband, which at common law might be taken advantage of by the said *M. H.* yet your oratrix doth charge and insist, that such defective execution ought to be supplied and made good in equity, so as to bind the said estate and premises into whose hands soever the same shall come. And your oratrix further sheweth, that the said Sir *R. W.* and *C. W.* have not acted in the trust reposed in them as aforesaid, and say and insist that they neither can nor will act therein, or in any other trust for your oratrix without being directed thereto and indemnified therein by the decree of this honourable court. **In tender consideration** whereof, and forasmuch as your oratrix can obtain no relief in the premises, except in a court of equity, where matters of this nature are properly cognizable; **To the end therefore** that the said *M. H.* Sir *R. W.* and *C. W.* and the rest of the confederates, when discovered, may true and sufficient answer make to all and singular the premises, and that as fully, clearly, and absolutely as if the same were here again repeated and interrogated, and that not only as they know, but also as they remember, believe, or have heard; and more especially, that the said *M. H.* and his said confederates may set forth, whether the several indentures of lease and release as aforesaid were not made, and by and between whom executed; and that the said confederates may set forth whether the said *E. H.* did not intermarry with your oratrix at or about the time aforesaid, or when else; and at or about what time did he die, and

and who hath received the rents and profits of the said premises ever since his death, and to what yearly amount, and who is now in receipt thereof; and that the said *M. H.* may discover and produce the said first mentioned indentures of lease and release, and may either be decreed to pay your oratrix her said rent-charge of six hundred pounds a year already due and hereafter to grow due, and that the same may be confirmed to be as this honourable court shall direct, or else that she may have a conveyance of so much of the said premises as will amount to six hundred pounds a year decreed to be executed to her, or to such person or persons as she shall appoint, by the said *M. H.* during her life, and that the defective execution of the said power (if any) may be supplied by this honourable court, so as to bind the said estate and premises, and that the said *M. H.* may be decreed to account for the rents and profits of the said premises, and that your oratrix may be paid thereout what shall appear to be due to her for the arrears of her said jointure. or intended jointure, and that the said *Sir R. W.* and *C. W.* may be compelled to join in, do and execute such acts and deeds as this honourable court shall think fit to direct, and that your oratrix may be further or otherwise relieved in all and singular the premises as the nature and circumstances of her case shall require, and as to your Lordship shall seem meet. May it please your Lordship, &c.

*A Bill to perfect a Marriage Settlement brought by a Feme Covert by her next Friend and her Trustees.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, shew unto your Lordship, your orators *A. B.* and *C. D.* of, &c. and your oratrix the Right Honourable *E.* countess of *F.* formerly *E. H.* only child and daughter of *G. H.* of, &c. lately deceased, by *J. K.* Esq; her next friend, That the Right Honourable *L.* earl of *F.* being seised, or pretending to be seised, of an estate in fee simple or fee-tail, in divers manors, lands, tenements, and hereditaments lying and being in the several counties of *M.* and *N.* of a very considerable yearly value, some time in the year 1735 made his addresses, by way of courtship, for marriage to the said *E.* now countess of *F.* and upon a treaty between the said earl and the said *G. H.* the father of the said countess (and previous to the intermarriage) it was proposed and agreed by the said *G. H.* to give his daughter the sum of ——— as her marriage portion, and ——— more at the death of him and his wife; and the said



said earl, in consideration thereof, on his part purposed to settle and assure divers manors, lands, and hereditaments, effectually to secure a competent jointure upon your oratrix in case she should survive the said earl, and for a provision for the children that should happen to be born of the said marriage; and your orators and oratrix shew, that in order to answer these purposes, previous to the said marriage, by indentures of lease and release, the release bearing date on or about the 12th day of *May* 1735, and made between the said *L. earl of F.* of the first part, the said *G. H.* since deceased, and *E. H.* now your oratrix, and countess of *F.* of the second part, and your orators by the names of *A. B.* and *C. D.* of the third part, reciting, that a marriage was then intended (and since solemnized) between the said earl of *F.* and your oratrix, and that the said *G. H.* had agreed to give and advance as a marriage portion with his daughter the sum of ——— in present, and the further sum of ——— at the death of him the said *G. H.* and his wife; and that in consideration thereof, the said earl should settle such annuity on his said intended wife, and all and every the lands, tenements, and hereditaments therein comprised, to such uses, and upon such trusts as therein is expressed: It is by the said indenture of release witnessed, that in consideration of the said ——— to him the said *L. earl of F.* in hand paid by the said *G. H.* as the present marriage portion of his daughter, and of the sum of ——— secured to be paid as therein is mentioned, and for the making a provision for your oratrix, and for settling the manors, lands, and hereditaments therein mentioned, to such uses, and upon such trusts as therein are expressed, the said *L. earl of F.* granted and released to your orators *A. B.* and *C. D.* all those manors of *O. P.* and *Q.* in the several counties of *M.* and *N.* or one of them, and all messuages, farms, lands, tenements, and hereditaments to the said several manors belonging or appertaining, therein particularly described, lying and being in the several parishes of ——— and ——— in the said several counties of *M.* and *N.* to hold the said premises unto your orators the said *A. B.* and *C. D.* and their heirs, to the use of the said *L. earl of F.* until the said intended marriage should take effect, remainder to the use of the said *L. earl of F.* for life, without impeachment of waste, remainder to the said trustees (meaning your orators) to preserve contingent remainders during the life of the said earl, remainder to the use and purpose that the said *E. H.* (now your oratrix) might immediately after the decease of the said earl, have and receive a rent-charge of 1600 *l.* during her life, in bar of her dower, remainder to your orators *A. B.* and *C. D.* for 99 years, upon trust in case such annuity should be in arrear three months, that they might raise the same out of the rents, issues and

and profits of the said premises; and upon further trust, that until such default, to permit and suffer the rents, issues, and profits thereof, to be had or received by the person or persons next in remainder; remainder to the use of the first and all other the sons of the body of the said earl, on the body of the said *E. H.* to be begotten successively in tail male, remainder to the use of the said trustees, their executors, administrators, and assigns, for term of 300 years, remainder to the right heirs of the said *L.* earl of *F.* for ever; and the trust of the said term of 300 years is by the said indenture of release declared to be, in case of failure of issue male of the said intended marriage, for raising portions for daughters, and for a maintenance for them until the same should be paid: and the said earl thereby covenanted for himself, his heirs, executors and administrators, to and with the said *A. B.* and *C. D.* their executors and administrators, that he, notwithstanding any act of his own or his ancestors, was lawfully seised of the premises in fee-simple or fee-tail, and that notwithstanding any such act as aforesaid, he had in himself full and absolute power to convey the said manors, lands, and hereditaments, to the uses and upon the trusts therein expressed; and for the further and better assuring and conveying the said manors, messuages, farms, lands, tenements, hereditaments and premises thereby released, to the several uses, trusts, intents, and purposes thereby declared concerning the same; It is thereby on the part of the said *L.* earl of *F.* covenanted, and for his heirs, executors and administrators, to and with the said *A. B.* and *C. D.* their executors and administrators, to suffer a common recovery or recoveries of all the said premises, to and for the several uses, intents, and purposes, and upon the trusts, and under and subject to the provisos and agreements therein before limited and expressed concerning the same, with a covenant for further assurance, whereby such further assurance, and the said recovery thereby covenanted by the said earl to be suffered, and all other assurances theretofore had, are declared to be to the several uses, intents, and purposes, and upon the trusts, and under and subject to the provisos and agreements therein before limited and appointed concerning the same, as in and by the said indentures of release, relation being thereunto had, may, when the same shall be produced, more fully appear; and your orators and oratrix further shew, that the said intended marriage soon after took effect, and the said *G. H.* paid unto the said earl of *F.* ——— as the present portion of your oratrix the countess, and that ——— part thereof was applied by the direction of the said earl, in discharge of several mortgages and incumbrances which affected the said premises, or some part thereof; and the said earl of *F.* hath on the back of the said indenture of release indorsed a receipt

receipt for the said ———, and thereby expressed how the same had been applied, to which your orators and oratrix refer: And your orator and oratrix further shew unto your Lordship, that the said *L. earl of F.* being seised not only of the said manors, lands, and hereditaments in the said in part recited indenture of release contained, but likewise of divers other manors, lands, and hereditaments in tail male, by virtue of a settlement made on or about the 30th day of *March 1678*, by *G. late earl of F.* deceased, great uncle to the now earl, or by some other settlement of his ancestors; and the said estate-tail then and now existing, it became necessary for the said *L. earl of F.* to suffer a common recovery, or to make some further and other assurance concerning the said premises mentioned in the settlement on the marriage of your oratrix, in order the better to secure in all events the provision thereby intended your oratrix the countess and likewise to prevent the trusts and limitations of the said settlements upon any future contingency that hereafter may arise from being frustrated and rendered of no effect; your orators and oratrix therefore hoped that the said *L. earl of F.* would have done every thing in his power for the making the said provisions by the said settlement secure to your oratrix in the event of her surviving the said earl, and for rendering effectual all the said several trusts, uses, and limitations of the said deed in all events; and for that purpose the said earl hath been frequently applied to by your orators and oratrix. **But now so it is,** may it please your Lordship, that the said *L. earl of F.* and the honourable *U. P. of, &c.* cousin of the said earl of *F.* and eldest son and heir of *F. P. Esq.* deceased, combining and confederating together, set up various pretences to the detriment and injury of your oratrix the now countess of *F.* and the said earl of *F.* to prevent the securing in an effectual manner her jointure, and the other provisions intended by the said settlement, sometimes insist, that the said settlement already made as aforesaid is sufficient, and all that is in his power to make, and that he has not a legal freehold in him whereby he can be enabled to make a good tenant to the *præcipe* for suffering a common recovery, and for that purpose the said confederates pretend that the title to the premises settled or intended to be settled as aforesaid, is as follows, *to wit,* that the said *G. late Earl of F.* being seised in fee of and in divers manors, messuages, lands, tenements, and hereditaments of a considerable yearly value in the counties of *M.* and *N.* did by indentures of lease and release, the release bearing date on or about the 30th day of *March 1687*, between the Right Honourable the said *G. Earl of F.* of the one part, and *J. K. of, &c.* and *L. M. of, &c.* of the other part, the said Earl *G.* in consideration of a marriage then before had and solemnized between the said Earl and the Countess of *F.*  
his



his then wife, eldest daughter of, &c. and for the further and better assuring the manors, lands, and hereditaments therein after mentioned to be limited to the said Countess for her life, and for her jointure, and for settling and assuring several of the manors, lands, tenements, and hereditaments therein aftermentioned, to descend and come with the Earldom of *F.* unto the heirs male of the body of the said Earl of *F.* and for want of such heirs male, to the honourable *O. P.* brother of the said Earl, and to his sons and issue male severally and successively one after another, according as the said several manors, lands, and hereditaments are therein after mentioned to be limited to them; so that the said several manors, lands, and hereditaments might be continued together in the family of the said Earl, and for settling and conveying other the manors and lands therein mentioned upon several uses, intents, and purposes, he the said Earl *G.* did thereby grant and release unto the said *J. K.* and *L. M.* and to their heirs, all those, &c. To hold the said premises, with their and every of their appurtenances, unto the said *J. K.* and *L. M.* their heirs and assigns, to the several uses, trusts, intents, and purposes, and under the provisos, powers, and agreements therein after mentioned, declared, and contained; that is to say, as for the several manors of, &c. to the use of the said Earl *G.* for his life; without impeachment of waste, and from and after his decease, to the use of the said *A.* his then Countess, for her life for her jointure; and as to and for the said manors and premises after their decease, and also as for and concerning all other the manors, messuages, farms, lands, tenements, and hereditaments of him the said Earl therein before mentioned, to the use of the said Earl *G.* and the heirs male of his body, and for default of such issue, to the use of his brother *O. P.* for and during the term of 99 years, if he should so long live, without impeachment of waste other than for wilful pulling down of houses, stocking up wood, and ploughing up meadow grounds; and from and after the determination of the said term of 99 years, to the use of the said *J. K.* and *L. M.* and their heirs, for the life of the said *O. P.* to support contingent uses; and from and after the decease of the said *O. P.* to the use of *Q. P.* son and heir apparent of the said *O. P.* for and during the term of 99 years, if the said *Q. P.* should so long live without impeachment of waste, under the restrictions aforesaid; and from and after the determination of the said term of 99 years, to the use of the said trustees and their heirs for the life of the said *Q. P.* to support the contingent uses; and from and after the decease of the said *Q. P.* to the use of the 1st, 2d, 3d, and every other the son and sons of of the said *Q. P.* severally and successively, and of the several and respective heirs male of the body and bodies of all and every such son

son and sons lawfully issuing; and for default of such issue, to the use of *S. P.* (late father of the now Earl of *F.*) one other of the sons of the said *O. P.* for and during the term of 99 years, if he should so long live, without impeachment of waste, under the restrictions aforesaid; and from and after the determination of the said term of 99 years, to the use of the said trustees and their heirs, for the life of the said *S. P.* to support the contingent uses; and from and after the decease of the said *S. P.* to the use of his 1st, 2d, 3d, and every other the son and sons of the said *S. P.* severally and successively, and of the several and respective heirs male of the body and bodies of all and every such son and sons lawfully issuing; and for default of such issue, to the use of all and every other the son and sons of the said *O. P.* in tail male; and for default of such issue, to the use of the said *G.* Earl of *F.* his heirs and assigns for ever, with a power for the said *O. P.* *Q. P.* and *S. P.* as they should severally be in the actual possession of the said premises, to make leases not exceeding 21 years at the most improved yearly rent, and that it is therein provided, that the said *O. P.* *Q. P.* and *S. P.* being in the actual possession of the premises, should be empowered to make jointures each not exceeding 1000 *l. per ann.* and that it is therein provided that the said Earl *G.* might, during his life, by any deed or deeds, or by his last will and testament in writing, revoke, alter, and make void the uses therein before limited; and it is alleged that the said *G.* Earl of *F.* died in the year 1688, without issue male, and without revoking or altering the said settlement, or any of the uses or limitations thereof, but left the said *O. P.* his brother, and the said *A.* his Countess Dowager; and that upon his death the said *O.* then Earl of *F.* entered upon the said manors and premises, and was seised and possessed thereof according to the uses and limitations in the said deed of settlement in 1687, and had issue two sons, *to wit*, *Q. P.* and *S. P.* (which said *S.* was the father of the now Earl of *F.*) and that the said Earl *O.* departed this life in the year 1709, and that thereupon *Q.* his eldest son, then Earl of *F.* (uncle to the now Earl) entered upon the manors and premises aforesaid, and was possessed thereof by virtue of the settlement of 1687, for the term of 99 years, if he should so long live, and that the said Earl *Q.* departed this life in the year 1718, without issue, so that the said *S. P.* the second son of the said Earl of *O.* (and father of the now Earl) succeeded to the earldom, and by virtue of the said settlement of 1687 was possessed of and in the said manors and premises of an estate for the term of 99 years, if he should so long live, with remainder to his first and every other son in tail male, and that the said Earl *S.* on or about 1733, departed this life, leaving *L.* (the now Earl of *F.*) his only son and child; and it is pretended by the said confederates, that by indenture of bargain and sale, bearing date on

on or about the 31st day of *March* 1715, and afterwards inrolled in the high court of Chancery according to the due form of law, made between the said *Q.* (then Earl of *F.*) of the first part, *W. E.* Esq. and *E. H.* Gent. of the second part, and *J. W.* Gent. of the third part, the said Earl *Q.* granted, bargained, and sold to the said *W. E.* and *E. H.* and their heirs, the several manors or lordships of *O. P. Q.* with their appurtenances in the said several counties of *M.* and *N. &c.* To hold the same unto and to the use of the said *W. E.* and *E. H.* and their heirs, to make them tenants of the freehold in a recovery to be suffered, wherein the said Earl *Q.* was to be vouched; and it is thereby declared, that the said recovery when perfected, and the recoveror therein named, and his heirs, should stand and be seised of the said manors and premises therein comprised, and all other persons which then after should be seised thereof by virtue of the same recovery, should stand and be seised thereof to the use of such person and persons, for such estate and estates, and in such manner, and for such uses and purposes, and upon such trusts, conditions, or limitations, as the said Earl *Q.* by any writing or writings under his hand and seal, testified by two or more witnesses, should direct, limit, or appoint; and it is insisted by the said confederates, that in *Easter* term, in the first year of the reign of his Majesty King *George I.* a common recovery was accordingly suffered of the said manors and premises; and it is further insisted by the said confederates, that by indentures of lease and release, bearing date on the 30th and 31st days of *March* 1715, the release being quadripartite, and made between the said Earl *Q.* of the first part, the said *W. E.* and *E. H.* of the second part, the said *J. W.* of the third part, and *T. E.* and *J. E.* of the fourth part, It is thereby witnessed, that in order to settle the said manors and premises before mentioned in the name and blood of the said Earl *Q.* and as and for a declaration of the uses of the common recovery agreed to be suffered by the said indenture tripartite, as of all other assurances at any time then and after to be had, of all or any of the said manors and premises, it is by the said indenture declared and agreed between the parties thereto, and the said Earl *Q.* thereby directed, limited, and appointed, that the said common recovery so agreed and intended to be suffered, and all other assurances whatsoever of the premises to be had, should be and enure, and should be deemed and taken to be and enure, and the said *J. W.* the recoveror in the said recovery, and his heirs, and all other person or persons which then after should be or stand seised of the same premises by virtue of the said recovery, or any other or further assurances which should be made of the same manors and premises, should so stand and be seised of the same premises to the uses following; that is to say, to the use of the said Earl *Q.*  
and



and the heirs male of his body; remainder to the use of the Honourable *S. P.* uncle of the said Earl (and father of the now Earl) for 99 years, if he should so long live, without impeachment of waste; remainder to the use of the said *T. E.* and *J. E.* and their heirs during his life, to preserve contingent uses; remainder to the use of the said *L. P.* (the now Earl), son and heir apparent of the said *S. P.* for 99 years, if he should so long live, without impeachment of waste, other than for wilful pulling down of houses, stocking up woods, or ploughing up meadow grounds; remainder to the same trustees during his life, to preserve contingent uses; remainder to the first and other sons of the said *L. P.* the now Earl, successively in tail male; remainder to the use of all other the sons of the said *S. P.* successively in tail male; remainder to the use of the Honourable *F. P.* and the heirs male of his body; remainder to the use of the said Earl *Q.* and his heirs; and it is thereby further declared, that it should be lawful to and for the said *S. P.* and *L. P.* (the now Earl) as they should respectively be in possession of the said manors and premises, to grant, limit, or appoint any of the premises to any wife or wives, which either of them should then after marry, for life for their jointure, not exceeding in the whole 1000 *l. per annum*, and that it should be lawful for the said Earl *Q.* at any time during his life, by any deed or deeds, writing or writings by him executed in the presence of three or more witnesses, to revoke the uses before limited or declared; and by the same or any other deed so executed, to limit new uses touching the said premises, or any part thereof, as he should think fit; and it is alledged by the said confederates, that the said Earl *Q.* in the year 1718, departed this life without issue, and without revoking any of the uses in the last mentioned deed, and that thereupon the earldom devolved upon the said *S. P.* (father of the now Earl) and the said *L. Earl of F.* and the said *U. P.* do insist, that by the said recovery the limitations in tail under the settlement of 1687 were barred and extinguished; but your orators and oratrix are advised and insist, that such recovery is a void recovery for want of a good tenant to the *præcipe*, inasmuch as the said *Q. Earl of F.* was, at the time of executing the said deed and suffering the said common recovery, only tenant for 99 years under the said settlement of 1687, or of some other settlement or assurance of the ancestors of the said Earl, and that the freehold was then standing out in the trustees named in the settlement of 1687, or in some other trustees who did not join in such recovery, and therefore that notwithstanding such deeds and recovery might be executed and suffered, yet as the said *Q. Earl of F.* is now dead without issue, the title and estate hath of right devolved upon the present Earl, who by virtue of the settlement 1687 is (as your orators and oratrix are advised) tenant in tail in

in possession of the premises aforesaid; but by such means and pretences of the said confederates, the securing in an effectual manner the provisions intended your oratrix, by the said settlement is to her great prejudice delayed; and in case the said *L.* (the now Earl) should die before your oratrix without making some further assurance, the said settled estate may, by virtue of some former settlement, go over to the said *U. P.* or some other remoter remainder-man, in which event your oratrix, may, in some measure, be defeated of the provision intended her by the said settlement; though at other times it is admitted of the said *L.* Earl of *F.* and *U. P.* that the said common recovery is in itself void, and hath no operation in law; and your oratrix humbly insists, that the said settlement made upon her marriage, and the trusts thereof, ought to be executed and performed in the most beneficial manner, in order to answer the ends and intents thereof; and the rather, as your oratrix, and her father *G. H.* lately deceased, had no notice of the said settlement and pretended assurances of the ancestors of the present Earl now set up and pretended to be in force; but your oratrix and her father, and the trustees, were assured and did imagine, that the said Earl was seised of an estate in tail of the said premises mentioned in her marriage settlement, or of some other estate of inheritance, whereby he might have been enabled to have suffered a common recovery, or of making other assurances for the assuring and effectually securing the provisions intended your oratrix by the said settlement in case your oratrix should survive the present Earl, and all other provisions intended by the said settlement; and under the confidence that the said Earl was so seised, the said *G. H.* her father, not only paid to the said earl, or to his order, and by his direction, the said sum of ——— as her marriage portion, but likewise agreed to give and advance unto the said Earl the further sum of ——— upon the death of him and *S.* his wife, and by indentures of demise and grant of several manors, &c. for a term of years thereby created, hath secured the same to be so paid; and your oratrix hopes, that in case it should be determined by this honourable court, that the said *L.* now Earl of *F.* is intitled to only an estate for years or life, in the manors, lands, and tenements in your oratrix's said marriage settlement contained, or any of them, then that he may be obliged out of other his manors, lands, and hereditaments, effectually to secure unto your oratrix the said rent-charge of 1600 *l.* a year intended as a jointure and provision for your oratrix by the said marriage settlement in case your oratrix should survive the said Earl, and likewise to make good and secure to your oratrix the other provisions made or intended for her by the said settlement, or at least such part of the said rent-charge and jointure, as the powers by any of the family settlements of making jointures shall fall short to answer and make good: And

the said *U. P.* claims some right or title to the said premises, and insists your oratrix's said settlement ought not to be carried into execution, but refuses to discover what right he claims, or how he claims the same, and what reasons he has against your oratrix's said settlement being carried into execution. **In ten-  
der consideration** whereof, and forasmuch as your orators and oratrix are entirely remediless in the premises according to the strict rules of the common law, and can only have relief in a court of equity, where matters of this nature are properly cognizable and relievable; **To the end therefore** that the said *L. Earl of F.* and *U. P.* may true and perfect answer make to all and singular the several matters and things herein before set forth, and that in as full and ample manner as if the same were here repeated, and they were interrogated thereto, and more especially that they may set forth and discover whether such settlement of the 10th day of *May* 1735, or of some other date, and when, was not, on or before the intermarriage of the said *L. Earl of F.* with your oratrix, made and entered into by the said *L. Earl of F.* and whether the same is not to the purport and effect as herein before is set forth, or to what other purport and effect, and whether the marriage portion of your oratrix did not amount to the sum as herein before is mentioned, and whether ———, part thereof, was not accordingly paid to and received by the said *L. Earl* or whether the same or part thereof was not paid and applied according to the order and direction of the said *L. Earl* and whether the further sum of ———, residue of your oratrix's portion, be not secured to be paid at the death of the said *G. H.* and his said wife; and that the said *L. Earl* may set forth, whether such settlement bearing date on or about the 30th day of *March* 1687, or of some other and what date, and to the purport and effect aforesaid, or to some other and what purport and effect, was not executed by the said *L. Earl G.* (great uncle of the now *Earl*), and that he may produce the said deed, and may set forth the substance of all and every the deed and deeds herein before mentioned, and likewise all other deeds and writings in his custody or power relating to the said premises or to his estate and interest therein, and that he may produce the said several deeds and settlement before this honourable court, and that the said *U. P.* may set forth, whether he is not the eldest son and heir of *F. P.* named in the said indenture of the 31st of *March* 1715, and whether the said *F. P.* is not dead, and how long since, and whether he claims any estate in remainder or otherwise, and under what title, in any and which of the premises in your oratrix's said marriage settlement contained, and why he objects to your oratrix's said settlement being effectually carried into execution, and that the said *L. Earl of F.* may specifically perform his covenant in the said marriage settlement,



tlement, and be obliged to suffer one or more recovery or recoveries, or make some further and other assurance, of and in respect of the premises contained in the settlement on the marriage of your oratrix, as this honourable court shall think fit, in order more effectually to secure in all events the said provisions made your oratrix by the said settlement, and that all proper parties may join in suffering a compleat recovery or recoveries, and in all such further and other acts and assurances in the law, as are necessary for substantiating the said settlement, and for carrying the same into a perfect and effectual execution; and that your orators and oratrix may have such further and other relief touching the premises as shall be agreeable to justice and the nature of their case: ~~May it therefore~~ please your Lordship to grant unto your orators and oratrix your Lordship's letter missive directed to the said L. Earl of F. desiring him to appear to, and answer your orator's said bill, or in default thereof, his Majesty's most gracious writ or writs of *subpœna* directed to him the said L. Earl of F. and also to the said U. P. thereby commanding them, and every of them, at a certain day and under a certain pain therein to be limited, personally to be and appear before your Lordship in this honourable court, and then and there particular answer make to all and singular the premises, and to stand to and abide such further order and decree in the premises as to your Lordship shall seem meet. And your orators and oratrix shall ever pray, &c.

*A Bill for an Account of the Rents and Profits of mortgaged Premises, and for a Redemption, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator M. B. of \_\_\_\_\_ in the county of \_\_\_\_\_, Esq; that J. B. late of \_\_\_\_\_, otherwise \_\_\_\_\_ in the said county of \_\_\_\_\_, deceased, being seised and possessed of, and well intitled in fee-simple, or some other good estate of inheritance of, in and to a messuage, farm, and lands in \_\_\_\_\_ aforesaid, and in \_\_\_\_\_, and \_\_\_\_\_ in the said county, or in some or one of them, or in some adjacent town or towns, of the yearly value of sixty pounds, and upwards, part whereof was and is freehold, and other part thereof copyhold estate of inheritance, and holden of the lords of the several manors of \_\_\_\_\_, late \_\_\_\_\_, otherwise \_\_\_\_\_ with \_\_\_\_\_, and \_\_\_\_\_ with \_\_\_\_\_; and being so seised and possessed, by indenture bearing date on or about the 25th day of *March* 1698, made or mentioned to be made between the said J. B. of the one part and J. K. of \_\_\_\_\_

in the said county of —, since deceased, of the other part, in consideration of the sum of sixty pounds paid by the said *J. K.* to the said *J. B.* he the said *J. B.* did grant, bargain, sell, &c. unto the said *J. K.* his executors, administrators and assigns, all —, part of the said estate, to hold so much thereof as was and is freehold, for the term of five hundred years, to commence from the date of the said indenture, and to hold so much of the said premises as is copyhold at the will of the lord or lords of the respective manors whereof the same are holden, according to the custom of such manors respectively, in which said indenture is contained a proviso or condition for making void the same on payment of the sums of one pound and sixteen shillings, and sixty-one pounds and sixteen shillings, by the said *J. B.* his heirs, executors, or administrators, unto the said *J. K.* his executors, administrators, and assigns, at the several times therein mentioned and now long since past; and your orator further sheweth, that by indenture tripartite, bearing date on or about the twenty-ninth day of *December 1705*, made or mentioned to be made between the said *J. K.* of the first part, the said *J. B.* of the second part, and *W. C.* and *R. W.* of the third part, after reciting that the said *J. B.* did then stand indebted unto the said *J. K.* in the sum of two hundred pounds for principal and interest on the aforesaid mortgage, and for several other sums of money at divers times advanced and lent by the said *J. K.* to the said *J. B.* he the said *J. K.* in consideration of the said sum of two hundred pounds paid to him by the said *W. C.* and *R. W.* did, by and with the direction and consent of the said *J. B.* assign the said mortgaged premises unto them the said *W. C.* and *R. W.* to hold to them their executors, administrators, and assigns, for the then residue of the said term of 500 years and the said *J. B.* did ratify and confirm the said premises to them the said *C.* and *W.* their executors, administrators, and assigns, for the residue of the said term of 500 years; and for the better securing the repayment of the said sum of two hundred pounds and interest, the said *J. B.* did by the same indenture grant, bargain, and sell unto the said *C.* and *W.* all his the said *B.*'s freehold messuages, lands, tenements, and hereditaments in — and — aforesaid, not before assigned by the same indenture: To hold to them the said *C.* and *W.* their executors, administrators, and assigns, for the term of five hundred years, to commence from the date of the said last mentioned indenture, subject to a proviso and covenant therein contained, that upon payment of the sum of two hundred and ten pounds in manner therein mentioned, by the said *J. B.* his heirs, executors or administrators, unto the said *W. C.* and *R. W.* their executors, administrators or assigns, they the said *W. C.* and *R. W.* their executors, administrators and assigns, should, at the

the costs of the said *J. B.* his heirs or assigns, re-convey the said mortgaged premises unto the said *J. B.* his heirs or assigns or as he or they should appoint, free from all incumbrances done by them the said *C.* and *W.* or either of them; and the said *J. B.* did, about the time of the date of the said last mentioned indenture, surrender all his copyhold lands and tenements held of the several manors aforesaid, to the use of them the said *W. C.* and *R. W.* and their heirs, as a further security for the payment of the said sum of two hundred and ten pounds, and to be void on payment thereof in manner aforesaid: And your orator further sheweth, that soon after the execution of the said last mentioned indenture, he the said *J. B.* being of sound and disposing mind, memory and understanding, did duly make and publish his last will and testament in writing, bearing date on or about the eighth day of *February* one thousand seven hundred and five, which will was by him duly executed in the presence of three credible witnesses according to the statute in that case made and provided, and thereby the said testator did devise all the said mortgaged premises to *E.* his wife for her life, and after her decease to his son *R. B.* and his heirs lawfully to be begotten; and the said testator *J. B.* died soon after the making of his said will, without altering or revoking the same; and your orator further sheweth, that after the death of the said *J. B.* by indenture bearing date on or about the first day of *April* one thousand seven hundred and twelve, between the said *E. B.* and the said *R. B.* of the one part, and the said *R. W.* of the other part, the said *W. C.* being then dead, after reciting amongst other things, that they the said *E.* and *R. B.* had then borrowed of the said *W.* the further sum of sixty pounds, they the said *E.* and *R. B.* thereby agreed that the said freehold and copyhold premises should stand charged not only with the said sum of two hundred pounds and the interest thereof, but also with the said sum of sixty pounds and interest for the same, after the rate of five pounds for one hundred pounds for a year from the time of the date of the said last mentioned indenture; and your orator further sheweth, that afterwards, in or about the month of *November* 1714, the said *R. B.* died intestate without leaving any issue of his body, whereupon all his estate, right, interest and equity of redemption of, in and to the said mortgaged premises, descended and came to *A.* the wife of one *R. T.* she being the only sister and heir at law of her said deceased brother *K. B.* and also only surviving daughter and heir at law of the said testator *J. B.*; and your orator further sheweth, that soon after the death of the said *R. B.* by indenture bearing date on or about the first day of *January* 1714, made between *E. D.* widow (late the widow and relict of the said testator *J. B.*) and



the said *R. T.* and *A.* his wife of the one part, and the said *R. W.* of the other part, after reciting that they the said *E. D.* and *R. T.* and *A.* his wife, then stood indebted to the said *R. W.* in the said principal sums of two hundred pounds and sixty pounds hereingbefore mentioned, upon the several securities aforesaid, and that they had then borrowed of him the further sum of one hundred and forty pounds, amounting together to the sum of four hundred pounds, and the interest thereof, from the date of the said last mentioned indenture; and your orator further sheweth, that by indenture quadripartite bearing date on or about the twenty-sixth day of *March* 1719, made or mentioned to be made between *H. W.* widow and administratrix of the before named *R. W.* of the first part, *E. B.* of the second part, the said *E. D.*, *R. T.* and *A.* his wife of the third part, and *D. D.* gent. since deceased, of the fourth part, reciting that all interest of the said four hundred pounds was paid to the day of the date of the said last mentioned indenture, and that two hundred pounds, part of the said principal sum of four hundred pounds, was the proper money of the said *E. D.* and that the remaining two hundred pounds was the proper money of the said *H. W.* as the administratrix of her said late husband, who died intestate; and reciting that the said *R. T.* had occasion for the further sum of eighty pounds, the said last mentioned indenture witnessed, that in consideration of the said sum of two hundred pounds paid to the said *E. B.* and of the said sum of two hundred pounds paid to the said *H. W.* and also in consideration of the said sum of eighty pounds paid to the said *E. D.* and *R. T.* by the said *D. D.* she the said *H. W.* by and with the consent and direction of the said *E. B.* *E. D.*, *R. T.* and *A.* his wife, did assign all the said mortgaged premises to the said *D. D.* To hold the said freehold premises to him, his executors, administrators, and assigns, for the residue of the said terms of five hundred years and five hundred years hereinbefore mentioned; and the said *E. D.*, *R. T.* and *A.* his wife thereby ratified and confirmed the said assignment, and also bargained and sold the said copyhold premises to the said *D. D.* his heirs and assigns, subject to the proviso contained in the said indenture for making the same void, as to the said copyhold premises, and for re-conveying and re-assigning the said freehold premises upon payment of the sum of five hundred and four pounds, as therein is mentioned; that is to say, the sum of twelve pounds, part of the said five hundred and four pounds, upon the twenty-seventh day of *March* in the year of our Lord 1720; and soon after the execution of the said last mentioned indenture, the said *E. D.* and the said *R. T.* and *A.* his wife, did in due form of law surrender all and singular the said copyhold

hold premises held of the several manors aforesaid, into the hands of the respective lords of the said manors, to the use of the said *D. D.* and his heirs, under a condition for redemption of the said copyhold premises on payment of the said five hundred and four pounds in manner aforesaid, and satisfaction was thereupon entered on the former surrenders and other instruments herein before mentioned, now in the custody or power of the defendant herein after named, as, had your orator the same to produce, would more fully and at large appear: And your orator further sheweth unto your Lordship, that in or about the year of our Lord 1726, the said *A.* the wife of the said *R. T.* died without having made any disposition of her said equity of redemption, of and in the said mortgaged premises, by means whereof the same descended and came to her two daughters and coheirs *A.* and *S. T.* who were then infants under the age of twenty-one years; that is to say, the said *A.* was then about ten years of age, and the said *S.* about nine years of age; and from and after the death of the said *A. T.* the mother, the said *R. T.* the father of the said *A.* and *S. T.* the infants, continued in possession of the said mortgaged premises until about the year of our Lord 1730, and during all that time paid all interest due to the said *D. D.* on his said mortgage; and your orator further sheweth, that *E. A.* of ——— aforesaid, esq. being desirous to get the said mortgaged premises into his own possession, and to become the purchaser of the inheritance and equity of redemption thereof; and apprehending, that if the debt charged on the said premises was increased, the said *R. T.* and his children would be obliged to sell the same, he the said *E. A.* did, with that view and for that purpose, apply to the said *D.* about the latter end of the year 1729, and did prevail on the said *D.* to get himself admitted tenant of the said copyhold estates held as aforesaid of the lords of the said four several manors (the fines of three of which said manors were arbitrary,) and after such admissions the said *A.* further prevailed on the said *D.* to surrender all the said copyhold premises unto him the said *A.* although the said *D.* before such application of the said *A.* was very well contented with his said security, without putting the mortgaged estate to the charge or expence of such admissions; and the said *A.*, as soon as the said copyhold premises were surrendered to him by the said *D.* as aforesaid, procured himself to be admitted tenant thereto, by means whereof two fines became due, and were paid to each of the lords of the said four several manors, on the said several and respective admissions of the said *A.* and *D.* and double fees were also paid to the stewards of the said four several manors, amounting together to the sum of seventy pounds and upwards, which the said *E. A.* now insists the said mortgaged premises ought to be

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charged

charged with; and your orator further sheweth, that the said *E. A.* did about the same time prevail on the said *D.* to assign the said freehold premises (so mortgaged to him the said *D.* as aforesaid) unto him the said *A.* but by what deed, of what date, or for what consideration such assignment was made, the said *A.* refuses to discover, and the said *E. A.* hath, ever since *Lady-day 1730*, been in possession of all the said mortgaged premises, and received the rents and profits thereof, and applied the same to his own use; and your orator further sheweth, that the said *R. T.* died on or about the — day of —, after whose death *A. T.* the elder daughter of the said *R. T.* by the said *A.* his wife, intermarried with *R. P.* and attained her age of twenty-one years on or about the fifteenth day of *April 1737*, and the said *S. T.* the younger daughter of the said *R. T.* by the said *A.* his wife, did also attain her age of twenty-one years on or about the 10th day of *April 1738*; and your orator having agreed with the said *R. P.* and his wife for the absolute purchase of their moiety of the inheritance and equity of redemption of all the said mortgaged premises both freehold and copyhold, for the sum of one hundred pounds, they the said *R. P.* and his wife, by indentures of lease and release, the lease bearing date the twenty-second, and the release the twenty-third day of *July 1737*, in consideration of the sum of one hundred pounds to them paid by your orator, did grant and release unto your orator and his heirs, all that their moiety or half part of and in all and singular the said premises comprised in the aforesaid mortgages, or in any of them, and all the right, title, interest and equity of redemption of them the said *R. P.* and *A.* his wife, or either of them, of, in and to the same premises, or any part thereof; To hold unto your orator, his heirs and assigns, to the use of your orator, his heirs and assigns for ever; and pursuant to a covenant in the said indenture of release contained, the said *R. P.* and *A.* his wife, joined in levying a fine of the said premises to the use of your orator, his heirs and assigns for ever: And your orator having also agreed with the said *S. T.* for the absolute purchase of her moiety of the inheritance and equity of redemption of all the said mortgaged premises both freehold and copyhold, for the like sum of one hundred pounds, she the said *S. T.* by indenture of lease and release, the lease bearing date the eleventh, and the release the twelfth day of *April 1738*, in consideration of the sum of one hundred pounds to her paid by your orator, did grant and release to your orator and his heirs, all that her the said *S.*'s moiety or half-part, of and in the same premises, and all her right, title, interest, and equity of redemption of, in and to the same, and every part thereof; To hold unto your orator, his heirs and assigns, to the use of your orator, his heirs and assigns for ever; and the said *R. P.* and *A.* his



*A.* his wife, and the said *S. T.* for the several considerations aforesaid, have severally surrendered all the said copyhold premises herein before mentioned, into the hands of the respective lords of the said four several manors, whereof the same are holden to the use of your orator, his heirs and assigns for ever, according to the custom of the said manors respectively, as by the said several indentures of lease and release, and surrenders, it doth and may appear; and your orator further sheweth, that he hath caused his said purchase deeds to be produced and shewn to the said *E. A.* to be by him inspected and perused, that he might satisfy himself in respect to your orator's title to the equity of redemption of the said mortgaged premises; and the said *E. A.* accordingly inspected and perused the same, and seemed to be satisfied with your orator's title to the equity of redemption of the said mortgaged premises; and your orator hath divers times since his said purchase, by himself and agents, applied to the said *E. A.* and in a fair and friendly manner desired him to produce and shew to your orator or his agents, the deeds and securities whereby he claims to have any charge or incumbrance on the said mortgaged premises, that your orator might know what, and how much principal money the said premises do now stand lawfully charged with, and liable to; and your orator hath also requested of the said *E. A.* that he would come to a just and fair account with your orator touching the rents and profits of the said mortgaged premises, received by him or any other person or persons for his use, or which without his wilful default he might have received, and also touching what is due to him the said *E. A.* for principal and interest on the aforesaid mortgages, and your orator hath offered, and doth hereby offer to pay unto the said *E. A.* what upon a fair account shall appear to be justly due unto him, and lawfully charged on the said premises by virtue of the said mortgages, immediately after settling the said account, or at the end of three or six months then next following, as should be most agreeable to the said *E. A.*; and your orator hath also offered, that if any difficulty should arise in settling the said account, the same should be referred to two indifferent persons to be chosen by the said *A.* and your orator; and that if any question of law should arise, the same should be determined by the opinion of some counsel to be agreed on between them, and your orator had reason to hope that the said *E. A.* would have complied with your orator's said just and reasonable offers and requests: **But now so it is,** may it please your Lordship, that the said *E. A.* sometimes pretends that he hath an absolute estate in law in the said mortgaged premises, and that he did, so long ago as the year of our Lord 1730, purchase the equity of redemption of the said mortgaged premises, of the said *R. T.* and that the said *R. T.* did, by some indenture

indenture or articles of agreement under his hand and seal, covenant and agree, that the said *R. T.* and his two daughters herein before named, should and would, when and as soon as his said daughters should respectively attain the age of twenty-one years, release and convey the equity of redemption of the said mortgaged premises unto him the said *E. A.* in consideration of a certain sum of money, pretended to be paid to the said *R. T.* and his said two daughters, or some or one of them; whereas your orator chargeth, that if any such deeds or articles was or were executed by the said *R. T.* as aforesaid (which your orator doth not admit,) yet the said *E. A.* never paid any consideration for the same; and in regard the said *A.* and *S. T.* the daughters of the said *R. T.* were then infants under the age of twenty-one years, your orator is advised, and humbly insists, that they were not in any sort bound thereby, but that the equity of redemption of the said freehold and copyhold premises, being so conveyed and surrendered to your orator as aforesaid, he ought to stand in the place of the said *A.* and *S.* the daughters of the said *R. T.* and *A.* his wife, and ought to be let into a redemption of all the said mortgaged premises upon payment of what shall appear to be justly due to the said *E. A.* by and under the aforesaid indenture of mortgage of the twenty sixth day of *March 1719*; and at other times the said *E. A.* pretends that the said *R. T.* borrowed several other sums of the said *D.* and of him the said *E. A.* over and besides the said sum of four hundred and eighty pounds, to the amount in the whole of the sum of seven hundred pounds principal money, or some other considerable sum, and that the same now stands charged on the said mortgaged premises by virtue of some deed or deeds, writing or writings entered into and executed by the said *R. T.* whereby he hath covenanted and agreed with the said *D.* and *E. A.* or one of them, to charge the said mortgaged premises with the said sum of seven hundred pounds, or some other considerable sum of money; but the date, purport and contents of such deeds or writings, or for what consideration the same was or were made, the said *E. A.* altogether refuses to discover, and hath refused or declined to produce the same to your orator or his agents, and hath pretended that he was advised it was improper for him to produce the same, so that your orator cannot certainly know what sum of principal money is really charged on the said mortgaged premises; and your orator expressly charges, and so the truth really is, that no fine was ever levied by the said *A.* the wife of the said *R. T.* nor any surrender made by her, save only for the charging the said premises with the said sum of four hundred and eighty pounds and interest, in manner aforesaid; and your orator is advised, and humbly insists, that the said mortgaged premises, being the inheritance of the said *A.* the

*A.* the wife of the said *R. T.* the same could not in law be made subject to the covenant of the said *R. T.* nor to any agreement entered into by the said *R. T.* and *A.* his wife, during her coverture, if any such there be (which your orator doth not admit;) nor ought the said *A.* the wife of the said *R. T.* or her issue, or your orator who claims under them, to be bound by such covenant or agreement, nor ought their estate or interest in the premises to be in any sort affected thereby; but your orator ought to be let into a redemption of all the said mortgaged premises, both freehold and copyhold, on payment of the aforesaid principal sum of four hundred and eighty pounds, and interest, without any regard to any covenant or agreement entered into by the said *R. T.* alone, or by him and the said *A.* his wife during her coverture; and the said *E. A.* being the lord of the manor of ——— with ———, hath taken the court-books relating to the said manor from his steward, and keeps the same in his own custody, and absolutely refuses to admit your orator to that part of the said copyhold premises which is holden of his said manor, and which has been surrendered unto your orator as aforesaid; and the said *E. A.* doth also refuse to discover unto your orator, what sums of money have been received by him, or by any other person or persons by his order, or for his use, or which without his wilful default might have been received by and out of the rents and profits of the said mortgaged premises; and the said *E. A.* hath ploughed up the land-marks in order to prevent your orator from discovering the true boundaries of the said mortgaged premises, and hath laid out great sums of money in and about the fences and inclosures of the said premises, in an unnecessary and unprofitable manner, and with design to increase the debt on the said estate, and to prevent your orator from seeking a redemption thereof: All which actings, doings, and pretences of the said *E. A.* are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator. **In tender consideration** whereof, and for that your orator is utterly remediless, by the strict rules of the common law, and cannot have a discovery of the truth of the several matters aforesaid, but by the corporal oath of the said *E. A.* nor can your orator be let into redemption, or have an account of the rents and profits of the said mortgaged premises, without the aid and assistance of a court of equity before your Lordship, where matters of this nature are properly cognizable and relievable: **To the end** therefore that the said *E. A.* may, upon his corporal oath, full, true, distinct and perfect answer make, to all and singular the matters and things herein before set forth, as fully and particularly as if the same were here again repeated and interrogated; and more especially, that he may set forth and discover,



discover, whether he doth not know or believe, that the said *J. B.* was seised and possessed of such freehold and copyhold premises, of such yearly values as herein before mentioned, or any other; and what freehold and copyhold estate or estates, where situate, in whose tenure or occupation, and at, and under what yearly rent; and of what manor or manors the said copyhold premises are holden; and whether the said *J. B.* did not make such mortgages of the said premises as aforesaid, or what other mortgages, by any and what deeds or surrenders, of what date, and to what purport or effect, and for what consideration really and truly paid, as he the said *E. A.* knows, has heard or believes; and whether the said *J. B.* did not make and duly publish such last will and testament, of such date and purport as aforesaid, or to what other purport or effect; and whether the same was duly executed, and before whom, as he knows, believes, or has been informed; and whether the said *J. B.* did not die soon after making his said will, or at any other, and what time; and whether the said *E. B.* the widow of the said *J. B.* and the said *R. B.* the son and heir of the said *J. B.* devised by and under the will of the said *J. B.* did not make such mortgage as before mentioned, or any other, and what mortgage of the said freehold and copyhold premises, and by what deeds, surrenders, or other instruments, and when dated and executed, and for what consideration really and truly paid, and whether he doth not know or believe, that the said *R. B.* died intestate, and without issue of his body at the time aforesaid, or at any other and at what time, and whether his estate and interest in the said premises, did not, as he believes, or has been informed, descend and come unto *A.* the wife of the said *R. T.* as only sister and heir at law of the said *R. B.* and only daughter and heir at law of the said testator *J. B.* and whether *E. B.* the relict of the said *J. B.* and the said *T.* and his wife did not duly make and execute such mortgage or security as aforesaid, or any other, and what mortgage or security of the said freehold and copyhold premises, or any, and what part thereof, unto the before named *R. W.* and by what deeds or instruments, when dated and executed, and for what consideration really and truly paid, and when, and to whom, and where, and before whom, and whether such assignment was made of the said mortgage to the said *D.* as aforesaid, and when, and who are parties thereto, and by whom was the same executed, and before what witnesses, and where do those witnesses live, and may be found or heard of, and whether such surrender was made to the said *D.* as aforesaid, and what consideration money was really paid by the said *D.* for such assignment and surrender, and when, and where, and before whom was the same paid; and whether upon surrendering the

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the said copyhold premises to the said *D.* as aforesaid, satisfaction was not acknowledged upon all former surrenders, made by way of mortgage of the said premises as aforesaid, and whether the said *A.* the wife of the said *R. T.* did not die about the time aforesaid, without making any disposition of her equity of redemption of and in the said mortgaged premises, or any part thereof, and whether the right and equity of redemption of the said *A. T.* did not, on her death, descend to her two daughters, subject to the estate for life of the said *R. T.* their father, in the said freehold premises, as tenant by the curtesy of *England*, and if the said *T.*'s said daughters were not infants of such respective ages as aforesaid, at the death of their said mother, and whether the said *R. T.* did not continue in possession of the said mortgaged premises, and pay all interest on the aforesaid mortgage until the twenty-sixth day of *March 1730*, or to what other time, and whether the said *R. T.* and his wife made any, and what further mortgage to the said *D.* — or the said *E. A.* by any, and what deeds, surrenders, or other instruments, and when dated and executed, and for what consideration really and truly paid, and when, and where, and by whom, to whom, and before whom was the same so paid; and that he, the said *E. A.* may set forth the date, substance, and short contents of all deeds, surrenders, and other securities whatsoever, in his custody or power, any way affecting the said mortgaged premises, either freehold or copyhold, or any part thereof; and whether he the said *A.* did not, for the reasons aforesaid, or for what other reasons, apply to the said *D.* and persuade him to get himself admitted to all the said copyhold premises, and whether the same are not held of four several manors, and if the fines due to the lords of the said manors, or any, and which of them, are not arbitrary, and what such fines and steward fees did amount unto, on the several admissions of the said *D.* and *A.* respectively, and if the said *D.* was not content with his security without such admission, till such application was made to him by the said *A.* as aforesaid, and if such application was not made by the said *A.* as aforesaid, and with intent to load the said estate with expence, so that the said *T.* and his children might be obliged to sell the same, and whether he the said *A.* did not then design to become the purchaser thereof, and with that view did not procure the said *D.* to assign his said securities and surrender the said copyhold premises to him the said *A.* and if he the said *A.* did not frequently, by himself or agents, apply to the said *D.* in order to prevail on him to make such assignment and surrender, and if he the said *A.* did not pay, or agree to pay the said *D.* some premium, present, or other gratuity, or reward for so doing, over and above what was justly due on the said securities,

curities, and whether the said *A.* did settle any account with the said *D.* of what was due to him for principal and interest on the said securities, and that he may set forth such account in the very words and figures thereof, and whether he hath been admitted to the said copyhold premises, or any, or what part thereof, and when, and what did the fines and fees on such admission amount unto; and that the said *E. A.* may set forth, whether the said *R. T.* and his wife did ever levy any fine or make any surrender of the said freehold or copyhold premises, or any, and what part thereof, unto the said *D.* or *E. A.* or either of them, for the securing the said sum of four hundred and eighty pounds and interest, as herein is set forth, and that he may set forth when such fine was levied (if there be any such,) and what were the uses thereof declared to be, and by what deed or writing, when dated and executed, and who are parties and witnesses thereto, and what consideration was really paid for the same, by whom, and to whom, and when, where, and before whom, and when the said *E. A.* or his agents first of all had possession of the said mortgaged premises, and from what time he or they have received the rents and profits thereof, and who had the possession, and received the rents of the said premises until that time, and that he may set forth a full, true, and just account of the rents and profits of all and singular the said mortgaged premises, received by him or any other person or persons for his use, or which, without his wilful default, might have been received, and when, and of whom, and for what the same were severally received, and when, and at what time in particular the said *R. T.* died, and whether his said daughters did not attain their respective ages of twenty-one years at the several times aforesaid, or at what other times; and whether the said *A.* the daughter of the said *R. T.* did not intermarry with the said *R. P.* as aforesaid, and whether your orator hath not purchased the equity of redemption of all the said mortgaged premises, both freehold and copyhold, of the said *R. P.* and *A.* his wife, and *S. T.* the daughters and heirs of the said *A.* the wife of the said *R. T.* and whether the same hath not been so conveyed and surrendered to your orator as aforesaid, and whether he the said *E. A.* hath not refused to admit your orator to that part of the copyhold premises which are held of the said manor of ——— with ——— and if he hath not taken the court books from his stewards on purpose to prevent your orator's admission to the said premises, and whether your orator hath not made such application, and such offers and requests to him the said *A.* as aforesaid, and why and for what reason he refused or declined to accept of such offers or to comply with such requests, and if it was not with design to increase the debt on the said mortgaged premises, so that the same may not be worth redemption; and more particularly, that



the said *A.* may answer whether your orator hath not caused his purchase deeds to be produced and shewn to him the said *A.* and whether he did not inspect or peruse the same, or whether your orator's agent did not read the same over to him, and whether he hath not refused to produce or shew his securities to your orator or his agents, and hath declared, that he was advised not to produce the same, and whether the said *A.* hath not pretended to be absolutely intitled to the same mortgaged premises, and to the equity of redemption thereof, under some, and what articles of agreement, alleged to be entered into between him and the said *R. T.* and whether the said *R. T.* had a right to make such agreement, and what consideration was paid for the same, and whether the said *A.* and *S. T.* the daughters of the said *R. T.* were, or were not infants at the time such agreement was entered into, and whether he the said *A.* doth not now insist on such agreement or not; and that the said *E. A.* may set forth what is now justly due to him, for principal and interest on any, and what mortgage or mortgages of the freehold or copyhold premises aforesaid, or any, and what part thereof, and he how computes and makes out the same, and if he insists on any principal sum, over and besides the said four hundred and eighty pounds, that then he may particularly set forth and discover how, and by what deeds, surrenders, or other conveyances the same is become chargeable on the premises aforesaid, and that he may answer and set forth, whether he hath not ploughed up the landmarks and made divers new fences and inclosures on the said premises, in a very unnecessary and unprofitable manner, for the purposes, and with the intent before mentioned; and that the said *E. A.* may answer all and singular the premises, not only as to what he himself knows, but also as to what he hath heard, been informed, and believes concerning the same respectively, and when, and by whom he had such information; and that the said *E. A.* may come to a fair and just account with your orator for the rents and profits of all the said mortgaged premises both freehold and copyhold, which have been received by him, or any other person or persons for his use, or which, without his wilful default, might have been received, and that upon payment of what shall appear to be justly due to the said *E. A.* on the aforesaid mortgages for four hundred and eighty pounds, and interest (after a deduction of what hath been, or might have been so received by him as aforesaid), your orator may be let in to a redemption of all the said mortgaged premises; and that the said *A.* and all persons claiming under him, may convey and surrender all the said premises to your orator and his heirs, or as he shall direct and appoint, free from all incumbrances, done by him the said *A.* or any person or persons claiming under him; and that your orator may be further and otherwise relieved in the premises,

premises, as the nature of his case shall require, and according to the rules of equity and good conscience. May it please, &c.

*A Bill for Redemption of a Mortgage.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *A. B.* of, &c. That your orator having occasion to borrow the sum of six hundred pounds, did apply himself for that purpose to *C. D.* of, &c. who agreed to lend to your orator the same; and your orator, for securing the re-payment thereof, with interest, did agree to mortgage to the said *C. D.* the messuages, &c. and premises herein after mentioned, and accordingly your orator did execute to the said *C. D.* one indenture bearing date on or about the — day of —, and which was made between your orator of the one part, and the said *C. D.* of the other part, and by the said indenture your orator, in consideration of the sum of six hundred pounds, to him in hand paid, by the said *C. D.* did demise, &c. unto the said *C. D.* his executors, administrators, and assigns, all that, &c. to hold unto the said *C. D.* his executors, administrators, and assigns for the term of 99 years, subject to a proviso or condition of redemption on payment of the said sum of six hundred pounds with interest for the same, on the — day of — 1739; as in and by the said indenture of mortgage, in the custody of the said *C. D.* when produced, will more fully and at large appear; and your orator farther sheweth unto your Lordship, that your orator hath paid all interest for the said sum of six hundred pounds till *Christmas* 1740, to the said *C. D.* but the said *C. D.* in order to distress your orator, hath caused declarations in ejectment to be delivered to the tenants in possession of the said premises, and doth threaten that he will get into possession thereof, and receive the rents and profits of the said premises, although your orator hath always been, and still is, ready to pay to the said *C. D.* what is due to him for principal and interest on the said mortgage, and did actually, on or about the — day of — 1740, tender and offer to pay to the said *C. D.* the said sum of six hundred pounds, together with all interest due for the same, at the time the said tender was made, being the sum of —, being for three months interest then due for the said sum of six hundred pounds at five pounds by the hundred by the year, and also the sum of — for the costs of the said declarations; and your orator well hoped that the said *C. D.* would have received the said several sums of money so offered and tendered to be paid to him by your orator as aforesaid, and either have delivered up unto your orator the said mortgage deed to be cancelled

or

or have re-assigned the same to your orator, as in justice and equity he ought to have done; But now so it is, may it please your Lordship, that the said *C. D.* combining and confederating himself to and with divers other persons, at present unknown to your orator, whose names when discovered your orator humbly prays may be inserted in this his bill of complaint, with apt and proper words to charge them, he the said *C. D.* (in order to deprive and defeat your orator of the benefit of redeeming the said mortgaged premises) does pretend and give out in speeches, that your orator did not borrow of the said *C. D.* the said sum of six hundred pounds, nor execute the said mortgage deed to the said *C. D.* for securing the repayment thereof with interest as aforesaid, but does pretend that the said sum of six hundred pounds was paid to your orator in consideration of the absolute purchase of the said premises for the said term of 99 years; and at other times he does admit that a deed of the same date as above mentioned, and made by the same parties, was executed by your orator, but that your orator did thereby absolutely dispose of the said term of 99 years without such proviso of redemption as above mentioned; whereas your orator chargeth, and so the said *C. D.* well knows, as the truth really is, that the said sum of six hundred pounds was borrowed upon the terms aforesaid, and upon no other consideration whatsoever, and that such deed with such proviso as above mentioned was executed by your orator as aforesaid, for the securing the repayment of the said sum of six hundred pounds with interest as aforesaid, and that no other deed was executed by your orator relating to the said sum of six hundred pounds or otherwise, than what your orator has above mentioned; and at other times the said *C. D.* does admit that such deed was executed as above mentioned, but does pretend that at the time of the tender above mentioned, great arrears of interest were due and owing from your orator to the said *C. D.* amounting to the sum of one hundred and fifty pounds and upwards, whereas your orator chargeth, and so the truth really is, that no more than the sum of seven pounds ten shillings was due and owing from your orator to the said *C. D.* for the interest of the said six hundred pounds at the time of the said tender; and upon the pretences aforesaid, the said *C. D.* refuses to come to any manner of account with your orator, or to re-convey the said premises to him, and is proceeding at law as fast as he can, in order to get into possession of the said premises: All which actions, doings, and pretences of the said *C. D.* and his confederates are contrary to equity and good conscience, and tend to your orator's apparent wrong and injury. In tender consideration whereof, and forasmuch as your orator is altogether remediless in the premises by the strict rules of the common law, and cannot have any dis-



premises, as the nature of his case shall require, and according to the rules of equity and good conscience. May it please, &c.

*A Bill for Redemption of a Mortgage.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *A. B.* of, &c. That your orator having occasion to borrow the sum of six hundred pounds, did apply himself for that purpose to *C. D.* of, &c. who agreed to lend to your orator the same; and your orator, for securing the repayment thereof, with interest, did agree to mortgage to the said *C. D.* the messuages, &c. and premises herein after mentioned, and accordingly your orator did execute to the said *C. D.* one indenture bearing date on or about the — day of —, and which was made between your orator of the one part, and the said *C. D.* of the other part, and by the said indenture your orator, in consideration of the sum of six hundred pounds, to him in hand paid, by the said *C. D.* did demise, &c. unto the said *C. D.* his executors, administrators, and assigns, all that, &c. to hold unto the said *C. D.* his executors, administrators, and assigns for the term of 99 years, subject to a proviso or condition of redemption on payment of the said sum of six hundred pounds with interest for the same, on the — day of — 1739; as in and by the said indenture of mortgage, in the custody of the said *C. D.* when produced, will more fully and at large appear; and your orator farther sheweth unto your Lordship, that your orator hath paid all interest for the said sum of six hundred pounds till *Christmas* 1740, to the said *C. D.* but the said *C. D.* in order to distress your orator, hath caused declarations in ejectment to be delivered to the tenants in possession of the said premises, and doth threaten that he will get into possession thereof, and receive the rents and profits of the said premises, although your orator hath always been, and still is, ready to pay to the said *C. D.* what is due to him for principal and interest on the said mortgage, and did actually, on or about the — day of — 1740, tender and offer to pay to the said *C. D.* the said sum of six hundred pounds, together with all interest due for the same, at the time the said tender was made, being the sum of —, being for three months interest then due for the said sum of six hundred pounds at five pounds by the hundred by the year, and also the sum of — for the costs of the said declarations; and your orator well hoped that the said *C. D.* would have received the said several sums of money so offered and tendered to be paid to him by your orator as aforesaid, and either have delivered up unto your orator the said mortgage deed to be cancelled

or

or have re-assigned the same to your orator, as in justice and equity he ought to have done; But now so it is, may it please your Lordship, that the said *C. D.* combining and confederating himself to and with divers other persons, at present unknown to your orator, whose names when discovered your orator humbly prays may be inserted in this his bill of complaint, with apt and proper words to charge them, he the said *C. D.* (in order to deprive and defeat your orator of the benefit of redeeming the said mortgaged premises) does pretend and give out in speeches, that your orator did not borrow of the said *C. D.* the said sum of six hundred pounds, nor execute the said mortgage deed to the said *C. D.* for securing the repayment thereof with interest as aforesaid, but does pretend that the said sum of six hundred pounds was paid to your orator in consideration of the absolute purchase of the said premises for the said term of 99 years; and at other times he does admit that a deed of the same date as above mentioned, and made by the same parties, was executed by your orator, but that your orator did thereby absolutely dispose of the said term of 99 years without such proviso of redemption as above mentioned; whereas your orator chargeth, and so the said *C. D.* well knows, as the truth really is, that the said sum of six hundred pounds was borrowed upon the terms aforesaid, and upon no other consideration whatsoever; and that such deed with such proviso as above mentioned was executed by your orator as aforesaid, for the securing the repayment of the said sum of six hundred pounds with interest as aforesaid, and that no other deed was executed by your orator relating to the said sum of six hundred pounds or otherwise, than what your orator has above mentioned; and at other times the said *C. D.* does admit that such deed was executed as above mentioned, but does pretend that at the time of the tender above mentioned, great arrears of interest were due and owing from your orator to the said *C. D.* amounting to the sum of one hundred and fifty pounds and upwards, whereas your orator chargeth, and so the truth really is, that no more than the sum of seven pounds ten shillings was due and owing from your orator to the said *C. D.* for the interest of the said six hundred pounds at the time of the said tender; and upon the pretences aforesaid, the said *C. D.* refuses to come to any manner of account with your orator, or to re-convey the said premises to him, and is proceeding at law as fast as he can, in order to get into possession of the said premises: All which actings, doings, and pretences of the said *C. D.* and his confederates are contrary to equity and good conscience, and tend to your orator's apparent wrong and injury. In tender consideration whereof, and forasmuch as your orator is altogether remediless in the premises by the strict rules of the common law, and cannot have any dis-

covery or relief touching the matters and things aforesaid, without the aid and assistance of this honourable court, where matters of account and redemption of estates are properly cognizable and relievable; ~~To the end therefore~~ that the said *C. D.* and his confederates (when discovered) may upon his and their corporal oaths (to the best of his and their remembrance, knowledge, and belief) true, perfect, and direct answer make to all and singular the matters and things aforesaid, as fully as if the same were herein again repeated, and they thereunto particularly interrogated, and more especially that the said *C. D.* may set forth whether your orator did not, and when, apply to him to borrow the said sum of six hundred pounds, or any other sum of money, and whether such deed was not executed by your orator, with such proviso for the repayment of the said sum of six hundred pounds with interest at 5 *per cent.* as above mentioned, or how otherwise, and whether your orator did not constantly, and to what time, pay the interest that became due for the said sum of six hundred pounds to the said *C. D.* or some person or persons, for his use and by his order or direction, and whether your orator did not make such tender of such several sums of money as above mentioned, to the said *C. D.* or how otherwise, and that the said *C. D.* may set forth what was due and owing to him on the said mortgage for principal and interest, and his costs at law respectively, at the time of the said tender, and that he may set forth why, or for what reason, he refused to receive the said several sums of money so tendered as above mentioned; and that your orator may be at liberty to redeem the said mortgaged premises; and that the said *C. D.* upon your orator's paying to him what shall appear to be due to him, for principal and interest on the said mortgage, together with his costs at law at the time the said several sums of money were so tendered to him by your orator as aforesaid, which your orator hereby offers to pay, and that thereupon the said *C. D.* may reconvey and re-assign to your orator the premises aforesaid free and clear of all incumbrances done by him, or any claiming by, from or under him; and that your orator may have and receive such farther and other relief in the said premises, as the nature of this your orator's case doth or may require, and as to your Lordship shall seem meet; ~~May it please your Lordship~~ (the premises considered) to grant unto your orator his Majesty's most gracious writ or writs of *subpoena* to be directed to the said *C. D.* and his confederates when discovered, thereby commanding them, and every of them, at a certain day, and under a certain pain therein to be limited, personally to be and appear before your Lordship in this honourable court, then and there upon their several and respective corporal oaths, true and perfect answer to make to all and singular the premises;



premises; and farther to stand and abide such order and decree therein as to your Lordship shall seem meet. And your orator shall ever pray, &c.

*A Bill to foreclose.*

**H**UMBL Y complaining, sheweth unto your Lordship, your orator *R. S.* of ———, gent. That in or about the year of our Lord 1727, *P. J.* of ——— in the county of ——— yeoman, being or pretending to be seised in fee, or of some other good and sufficient estate of inheritance, of and in the manor, messuages, farms, lands, tenements, and hereditaments herein after mentioned, and having occasion for money, did apply to your orator, and desire your orator to lend him the said *P. J.* the sum of ———, and in order to secure the repayment of the same with interest, after the rate of ——— by the hundred by the year, did propose to mortgage to your orator the said manor, &c. which he did affirm to your orator were free from all prior incumbrances, save a term of five hundred years in some part of the same premises, which (as the said *P. J.* informed your orator) was then vested in *L. M.* of ——— in the county of ———, gent. In trust for the said *P. J.* his heirs and assigns, and to be disposed of and assigned as he or they should direct: And your orator further sheweth unto your Lordship, that your orator did comply with the said request of the said *P. J.* and did accordingly lend him the said sum of ———, and for securing the repayment thereof with interest as aforesaid, by indentures of lease and release bearing date respectively the twentieth and twenty-first day of *April* 1727, and made between the said *P. J.* (by the name and description of, &c.) [*if necessary*] and *Q.* his wife of the one part, and your orator and one *A. B.* of &c. Esq. (since deceased) of the other part, the said *P. J.* for and in consideration of the sum of ——— of lawful, &c. to him in hand paid by your orator, and of five shillings paid to him by the said *A. B.* (which sum of ——— your orator charges was really and truly paid by your orator to the said *J. P.*) did grant, bargain, sell, release, and confirm unto your orator and the said *A. B.* (in their actual possession then being by virtue of the said indenture of lease for a year, and by force of the statute for transferring uses into possession) and to their heirs and assigns, all that the manor of *G.* with its rights, members, and appurtenances in the county of *E.* and all messuages; barns, buildings, edifices, stables, yards, gardens, orchards, lands, tenements, wood-grounds, leasows, commons, common of pasture, demesne lands, courts baron, courts leet, perquisites and profits

fits of courts, fines, heriots, reliefs, amerciaments, rents, services, escheats, waifs, estrays, deodands, felons' goods, warrens, heaths, mines, moors, marshes, patronages, and benefices of churches and chapels, advowsons, franchises, privileges, profits, commodities, advantages, emoluments, jurisdictions, and hereditaments whatsoever to the said manor belonging or appertaining, or reputed to belong or appertain thereunto; and also all that messuage or tenement, with the appurtenances, situate, standing, and being in ———, in the said county of ——— on the east side the said green there; and also all that orchard and close of pasture thereunto adjoining and belonging; and also all those several pieces or parcels of arable land, lay, meadow, and grass-ground, and lot-grass, with their appurtenances, lying dispersedly within the common fields, liberties, meadows, parishes, boundaries, and precincts of ——— and ———, in the said county of ———, containing by estimation fourscore acres; and also all those several pieces or parcels of arable land, lay, meadow, and pasture of grass ground, and lot-grass, with their appurtenances, lying and being dispersedly within the common and open fields, liberties, meadows, parishes, precincts, and territories of ——— and ——— aforesaid, containing by estimation forty-three acres, thencefore in the tenure or occupation of *S. C.* and *W. J.* their assignee or assignees: and also all that messuage, tenement, or farm-house, with the appurtenances, situate, standing, and being in ——— aforesaid, and thencefore in the possession of *T. B.* yeoman (a messuage or tenement there or then late of *W. P.* on the north-east part thereof, and the messuage or tenement of the said *P. J.* therein and herein before mentioned on the south-east part thereof), which said last mentioned messuage or farm-house was thencefore purchased by the said *P. J.* of and from one *T. B.*; and all other the messuages, lands, tenements, and hereditaments whatsoever of him the said *P. J.* in possession, reversion, or remainder, situate, lying, or being in the parishes of ——— and ——— aforesaid in the said county of ———, or any of them, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, claim, and demand whatsoever of him the said *P. J.* of, in, and to the same manor, lands, and premises, and every part and parcel thereof; To hold the said manor, messuages, farms, lands, tenements, hereditaments, and premises, and all and singular other the premises mentioned to be thereby granted and released as aforesaid, with their and every of their appurtenances, unto your orator and the said *A. B.* their heirs and assigns, to the only proper use and behoof of your orator and the said *A. B.* their heirs and assigns for ever: Nevertheless, as to the estate of the said *A. B.* and his heirs, in trust for

for your orator, his heirs and assigns; subject nevertheless to a proviso or condition for redemption in the said indenture of release contained; if the said *P. J.* his heirs, executors, administrators, or assigns, or any of them, should well and truly pay or cause to be paid unto your orator, his executors, administrators, or assigns, at or in the ——— in the parish of ———, in the said county of ———, the full sum of ———, of lawful money of *Great Britain*, at or upon the ——— day of ——— next ensuing the date thereof, and now long since past, without any deduction whatsoever, in manner set forth in the said indenture of release: And the said *P. J.* did, in and by the said indenture of release, covenant, and agree to and with your orator and the said *A. B.* that he and the said *Q.* his wife should and would, before the end of *Easter* term next ensuing the day of the date of the said indenture of release, acknowledge and levy (and which was accordingly acknowledged and levied) in due form of law one fine *Sur conuzance de droit come ceo*, &c. to your orator and the said *A. B.* and the heirs of your orator, of the said manor, lands, and premises, subject to such redemption as aforesaid; and the said *P. J.* did further covenant and agree, that the said manors, messuages, farms, lands, hereditaments, and premises, thereby released as aforesaid, were free from all incumbrances, except and other than the said term of five hundred years, of and in the said manor and premises, or the greatest part thereof, then vested in the said *L. M.* In trust for the said *P. J.* and his heirs, and to be disposed of and assigned as he or they should direct; which term the said *A. W.* did thereby direct and declare the said *L. M.* his executors and administrators, should stand possessed of and interested in, In trust only for your orator and the said *A. B.* and their heirs, to attend the inheritance of the same premises, subject to such redemption as aforesaid, with a covenant, that in case of failure of payment of the said sum of ——— according to the said proviso, your orator and the said *A. B.* might enter upon and enjoy the said mortgaged premises, and the rents and profits thereof, without any interruption of the said *P. J.* his heirs or assigns, or any other person whatsoever [*Here set forth the covenant for further assurance*] as in and by the said indentures of lease and release duly executed by the said *P. J.* and *Q.* his wife, now in your orator's custody, and ready to be produced, as this honourable court shall direct, and to which your orator, as also to the record of the said fine, for greater certainty refers himself, may more fully and at large appear: And your orator charges, that the said sum of ———, or any part thereof, was not paid to your orator, or any other person on his account, according to the said proviso in the said indenture of release contained, at the time therein mentioned, or at any other time; and your orator further sheweth unto your



Lordship, that the said *P. J.* having a further occasion for money, did, some time in or about the latter end of *February*, or on the first of *March* 1734, again apply to your orator to lend him the further sum of —, and in order to secure the repayment of the same with interest after the rate of — by the hundred by the year, offered to charge the said mortgaged premises therewith, which your orator consented to, and accordingly did advance, lend, and pay to the said *P. J.* the said sum of —, and for securing the re-payment thereof with interest as aforesaid, by an indorsement made upon the back of the said indenture of release, bearing date the first day of *March* 1734, reciting that the said principal sum of — remained wholly due and unpaid, but that all interest for the same was fully paid and satisfied to the day of the date thereof; and further reciting (and which your orator expressly charges to be true) that the said *P. J.* by his bond or obligation bearing even date with the said indorsement was become bound to your orator in the penal sum of — conditioned for the payment of the said sum of —, with interest for the same after the rate of — for every hundred pound on the first day of *September* then next ensuing; It is by the said indorsement witnessed, that for better securing the payment of the said sum of —, with interest for the same, after the rate of — *per cent. per annum* to your orator, his executors, administrators, and assigns, the said *P. J.* for himself, his heirs, executors, and administrators, and for every of them, did thereby covenant, promise, and agree, to and with your orator, his executors, administrators, and assigns, and every of them, that the said sum of —, and interest, after the rate aforesaid, to be computed from the day of the date thereof, was and should be placed, charged, and secured in and upon the manor, messuages, farms, lands, tenements, and hereditaments, comprised in the said indenture of release, and that the manor, messuages, farms, lands, and hereditaments, with their and every of their appurtenances in the said indenture mentioned to be released to your orator and his heirs, should remain to your orator, his executors, administrators, and assigns, a security as well for the said sum of —, and interest for the same, after the rate of — for every hundred pound by the year, to be accounted from the day of the date thereof, as for the said sum of —, secured by the said indenture of release, and the growing interest thereof, after the rate of — for every hundred pounds by the year; and that the said manor, messuages, farms, lands, tenements, and hereditaments, or any of them, or any part thereof, should not be redeemed or redeemable until not only the said —, and the growing interest thereof as aforesaid, but also the said —, then advanced and lent, and the interest thereof as aforesaid, should be fully paid  
and

and satisfied to your orator, his executors, administrators, or assigns, as in and by the said indorsement on the back of the said release, and the said bond duly executed by the said *P. J.* and to which your orator for greater certainty refers himself, may more fully and at large appear: And your orator further sheweth unto your Lordship, that the said sum of —, or any part thereof hath not been paid to your orator, neither was the said sum of —, or any part thereof, paid to your orator according to the condition in the said in part recited bond at the time therein mentioned, or at any time since; but the said two several sums of — and — are now due and owing to your orator, together with a great arrear of interest on the said several sums after the respective rates aforesaid; and the said *A. B.* being dead, the estate and interest in the said mortgaged premises is now become absolute in your orator and his heirs, and your orator well hoped that the said *P. J.* would either have paid your orator the said several sums of — and —, and the interest thereof respectively at the rates aforesaid, or would have suffered your orator to have peaceably and quietly held and enjoyed the said premises; and for that purpose your orator hath frequently and in a friendly manner applied himself to the said *P. J.* and requested him to pay the said several sums of — and —, and the interest due for the same respectively, or else quietly and peaceably to deliver up possession to your orator of the said mortgaged premises, together with all deeds, evidences, writings, escripts, and muniments, court-rolls, rent-rolls, and minutes of courts, relating to or concerning the same; and to release all his right, title, and equity of redemption of, in, and to the same premises to your orator and his heirs; the said *P. J.* well knowing (as your orator charges the truth to be) that the said premises are a very slender and scanty security for the principal and interest now due to your orator thereon; and your orator well hoped the said *P. J.* would have complied with such reasonable request of your orator, as in justice and equity he ought to have done: **But now so it is,** may it please your Lordship, That the said *P. J.* combining and confederating himself to and with the said *L. M.* and divers other persons, at present unknown to your orator, whose names, when discovered, your orator prays may be made parties hereto, with proper and apt words to charge them, now to injure and aggrieve your orator in the premises, and to defraud him of the said principal monies and interest due to him, sometimes give out and pretend, that the said premises were mortgaged by the said *P. J.* to the said *L. M.* for the said term of 500 years, for securing to him some very considerable sum of money; and that at the time such mortgage was made to your orator as aforesaid, he the said *P. J.* had only the equity of redemption of the same;

whereas your orator expressly charges (as the truth really is) that no money was due to the said *L. M.* on such term, but that the said *L. M.* is seized of the said term of 500 years, and his name made use of barely as a trustee, and the said term is now vested in him, in trust for your orator and his heirs, to attend the inheritance of the said premises; nevertheless the said *L. M.* refuses to let your orator bring an ejectment, in his name, for recovery of the premises comprised in the said 500 years term; and at other times the said *P. J.* pretends that he hath confessed judgments, statutes, and recognizances to several persons for several considerable sums of money, and made several other grants, conveyances, and secret incumbrances, which will affect the said premises, prior to your orator's title to the same, but refuses to discover the same, or to whom he hath so sold, mortgaged, or incumbered the premises as aforesaid, or the respective considerations thereof, or the persons to whom he hath confessed such judgments, statutes, or recognizances, and for what sums and what consideration, so that your orator cannot proceed at law for recovery of the said mortgaged premises, the said *P. J.* threatening, in case your orator proceed at law to set up the said incumbrances, and the said trust-term of 500 years in the said *L. M.* all which they pretend are prior to your orator's said mortgage; whereas your orator charges, that such conveyances, mortgages, or other incumbrances (except the said trust-term) are not prior to your orator's said mortgage (if any such there be), or if any of them are prior to your orator's said mortgage, the same are voluntary and fraudulent, and made without any consideration really and truly paid, and such judgments, statutes, and recognizances, were not for the payment of any just debt, but without any consideration, and voluntary and contrived on purpose to defraud the just creditors of the said *P. J.*; all which actings and doings are contrary to equity and good conscience, and tend to your orator's manifest wrong and injury. **In tender consideration** whereof, and forasmuch as your orator hath no means to discover what incumbrances there are upon the said mortgaged premises, or can foreclose the equity of redemption thereof, but in a court of equity, where matters of this nature are properly cognizable, and the rather so that your orator's witnesses, who could prove the truth of all and singular the premises, are either dead or gone into parts beyond the seas entirely unknown to your orator; **To the end** herefore that the said *P. J.* and *L. M.* and their confederates (when discovered) may, upon their several and respective corporal oaths, true, full, and perfect answer make to all and singular the premises, as fully and particularly as if the same were herein again repeated and they interrogated, according to the best of their respective knowledge, information, or belief; and more particularly



cularly whether the said *P. J.* was not, in or about the year 1727, or at some other and what time, and when, seised in fee, or of some other, and what estate of and in the manor, messuages, farms, lands, tenements, hereditaments, and premises herein before-mentioned, or some, and which of them, and whether he did not apply to your orator to borrow the sum of ——— or some other, and what sum of money, and propose to secure it with interest as aforesaid, in the manner herein before-mentioned, or in any other, and what manner, and whether your orator did not accordingly advance and lend to him the said *P. J.* the said sum of ——— and whether the said *P. J.* and *Q.* his wife did not execute such indentures of lease and release bearing date respectively the twentieth and twenty-first days of *April* 1727, or some other, and what indentures of mortgage of the said premises to your orator, or of any other and what date, and whether the said trust-term of 500 years was not thereby declared and agreed, or how otherwise intended to be vested in the said *L. M.* in trust for your orator and his heirs, to attend and wait upon the inheritance of the said premises, or for any other, and what trust or purpose, and whether the said *P. J.* did not again, some time in the year 1734, apply to your orator to borrow the further sum of ——— or some other, and what sum of money, and whether your orator did not advance and lend to the said *P. J.* the said sum of ——— and whether, for securing the repayment thereof with the interest as aforesaid, the said *P. J.* did not execute such bond of such date as is before set forth, or some other and what bond of the same, or any other, and what date, and whether he did not execute such indorsement on the back of the said release as is before set forth, bearing date the first of *March* 1734, or some other, and what indorsement or instrument in writing of the same, or such like date, tenor, purport or effect, and may admit the said several indentures of lease and release dated the twentieth and twenty-first of *April* 1727, and the said bond and indorsement made on the back of the said release, dated the first day of *March* 1734, and the payment of the several considerations thereof to be in the same manner they are herein before respectively set forth, or may set forth wherein they materially differ, and may set forth whether the said several sums of ——— and ———, or any part of either of them, hath at any time, and when been paid by any person, and by whom, to your orator, and may set forth how much is now due to your orator for principal and interest on his said several securities, and may set forth what incumbrances there are upon the said mortgaged premises, and when, and by whom the same were charged or incumbered, and who claim the same respectively, and may set forth the nature and kinds thereof, and whether the same are  
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by absolute sale, mortgage, statute-merchant, statute-staple, judgments, recognizances, or how otherwise, and the dates, tenor and short contents of such several incumbrances, and of the deeds, records, or other instruments or writings treating or relating to the same, and may set forth the respective considerations thereof, and when, where, and in whose presence such considerations were respectively paid, and whether in specie, bills, or how otherwise, and whether the said incumbrances, or any, and which of them are now unpaid and unsatisfied, and how much money is now due on the same respectively, and that the said *P. J.* may be decreed to pay and satisfy to your orator the said several sums of ——— and ——— and all interest due and to grow due thereon after the respective rates aforesaid, by a short day to be appointed by this honourable court, together with your orator's costs; and in default thereof, that the said *P. J.* and all persons claiming under him, may be foreclosed of and from all equity of redemption or claim, in and to the said mortgaged premises, and every part thereof, and may deliver over to your orator all deeds, charters, evidences, writings, muniments, court-rolls, rent-rolls, and minutes of courts whatsoever, relating to or concerning the said manor, messuages, farms, lands, tenements, hereditaments and premises, and that the said *L. M.* may set forth what right or title he hath or claimeth of and in the said premises, or any and what part thereof, and whether he is not a trustee for your orator, and why he refuses to let your orator bring an ejectment in his name, in order to recover possession of the said premises, and that the said term of 500 years may be declared to be in trust for your orator and his heirs, and to attend the inheritance of the said premises, and that your orator may have such further and other relief in the premises, as to your Lordship shall seem proper, and shall be agreeable to equity and good conscience. May it please your Lordship, &c.

*A Bill brought by an Infant by his next Friend against Executors for a Legacy.*

*To the Right Honourable, &c.*

**H**UMBL Y complaining, sheweth unto your Lordship, your orator *J. W.* son of *J. W.* of *D.* in the county of *K.* mariner, an infant under the age of twenty-one years, to wit, of about the age of six years, by his father and next friend, that *J. W.* of *T.* in the county of *Y.* gent. being seised and possessed of a very considerable real and personal estate, did, on  
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or about the fourth day of *March* in the year of our Lord 1742<sup>d</sup> duly make and publish his last will and testament in writing; and thereby, amongst other things, devised and bequeathed as follows; [*here cite the devise in the will*] And that upon or soon after the death of the said testator, to wit, on or about the — day of — the said *E. and W. W.* (*the executors named in the will*) duly proved the said will in the prerogative court of *York*, and took upon themselves the burthen and execution thereof; and by virtue thereof possessed themselves of all the said testator's real and personal estate, goods, chattels, and effects, to the amount of ten thousand pounds and upwards: And your orator further sheweth unto your Lordship, that he hath by his said father and next friend, several times since his said legacy of three hundred pounds was due, applied to the said *E. and W. W.* to have the same paid or secured for your orator's benefit; and your orator well hoped that the said *E. and W. W.* would have complied therewith, without suit, as in conscience and equity they ought to have done. **But now so it is, may it please your Lordship,** that the said *E. and W. W.* combining and confederating together to and with divers other persons, as yet to your orator unknown, whose names, when discovered, your orator prays may be herein inserted as defendants, and they made parties hereto, with apt words to charge them, now to injure and oppress your orator, the said confederates respectively do now absolutely refuse to pay or secure the payment of your orator's said legacy, sometimes pretending that the said testator did not make any such will; and at other times they admit that the said testator made such will, and that they have proved the same, and possessed themselves of all his real and personal estate; but then they pretend that the same was very small and inconsiderable, and not near sufficient to pay and satisfy his the said testator's just debts, legacies and funeral expences, and that they have applied and disposed of the same towards satisfaction thereof; and at the same time the said confederates do respectively refuse to set forth and discover what such real and personal estate was, or the particulars whereof the same consisted, or the value thereof, or how much thereof they have so applied, and to whom, and for what paid, or what is become thereof particularly; whereas your orator doth charge the truth to be, that the said testator died possessed of such real and personal estate to the full value aforesaid, and which was much more than would pay all his the said testator's just debts, legacies, and funeral expences; and the said confederates or one of them have possessed and converted the same to their own uses, without making any satisfaction to your orator for his said legacy; all which actings, pretences, and doings of the said confederates are contrary to equity and good conscience, and  
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tend to the manifest injury and oppression of your orator: **In tender consideration** whereof, and for that your orator is remediless in the premises, at and by the strict rules of the common law, and is only relievable in a court of equity, where matters of this nature are properly cognizable; **To the end therefore** that the said confederates may respectively, full, true, direct, and perfect answer make, upon their respective corporal oaths, according to the best of their respective knowledge, information, and belief, to all and singular the matters and charges aforesaid, as fully in every respect, as if the same were here again repeated, and they thereunto particularly interrogated; and more especially that they may respectively set forth and discover, according to the best of their knowledge, remembrance, information and belief, whether the said testator *J. W.* duly made and executed such last will and testament in writing of such date, and to such purport and effect as aforesaid, and thereby bequeathed to your orator such legacy of three hundred pounds as aforesaid, or any other, and what last will, of any other, and what date, and to any other, and what purport or effect particularly, and that they may produce the same, or the probate thereof, to this honourable court, as often as there shall be occasion; and whether by such will, or any other, and what will, the said testator appointed any and what other executors by name, and when the said testator died, and whether he revoked or altered the said will before his death, and when, and before whom, and in what manner, and whether the said confederates, or one, and which of them, proved the said will, and when, and in what court, and that they may respectively set forth whether your orator, by his said father and next friend, hath not several times, since his said legacy was payable, applied to them to have the same paid or secured to be paid for his benefit, or to that effect; and whether the said confederates or one, and which of them, refused or neglected to comply with such your orator's requests, and for what reasons respectively, and whether such refusal is grounded upon the pretences herein before charged, or any, and which of them, or any other, and what pretences particularly, and that the said confederates may admit assets of their said testator come to their hands sufficient to satisfy your orator's said legacy, and subject thereto, or otherwise may set forth a particular account of the real and personal estate, goods, and effects of which the said testator died possessed or intitled unto, and the particulars whereof the same consisted, and the values thereof, and how much thereof they have applied in discharge of his the said testator's debts, legacies, and funeral expences, and to whom and for what paid, and what is become thereof particularly, and whether the said testator did not die possessed of real and personal estates, goods and effects

to the value of ten thousand pounds, or what other value, and whether the same was not much more than would pay all his just debts, legacies and funeral expences, and that they may also set forth a just and true account of all such debts and sums of money as were really due and owing, by and from their said testator, at the time of his death, and to whom by name, and on what security or securities, and how, and on what account such debts were respectively contracted, and which of them now remain unpaid and unsatisfied; and that they may be compelled by a decree of this honourable court to pay your orator's said legacy of three hundred pounds, and that the same may be placed out at interest for your orator's benefit, until your orator attains his age of twenty-one years, and that the said three hundred pounds may then be paid him, and that, in the mean time, the interest thereof may be paid to your orator's said father *J. W.* towards the maintenance of your orator; and that your orator may have such further and other relief in the premises as the nature of this case shall require, and as to your Lordship shall seem meet. May it please your Lordship, &c.

*Bill of Review.*

*To the Right Honourable Edward Lord Thurlow, Baron of Aylfield in the County of Suffolk, Lord High Chancellor, &c.*

**H**UMBL Y complaining, sheweth unto your Lordship, your orators *A. B.* of, &c. and *C. D.* of, &c. that, &c. (*setting forth the former bill as in the decretal order;*) and thereupon the defendants answered, and the plaintiff replied, and witnesses were examined, and their depositions published, &c. that the cause came on to hearing, and was heard and decreed by the Lord Chancellor *C.* after which, &c. petitioned for a rehearing to the Lord Chancellor, &c. And the cause was accordingly reheard, and a decree for reversal was made by his Lordship; (*prout* the decree) and that decree is signed and enrolled in this court; but your orators do aver and say, that they are aggrieved by the said last decree, and that they ought not to be bound thereby, nor should any such decree have been made or pronounced against your orators; neither ought your orators to pay, &c. as by the said decree is appointed; and that the same decree is erroneous, and ought to be reversed; and for error do, according to the course of this honourable court, assign the errors therein as followeth: First, Your orators say and hope to maintain, that, &c. which is altogether uncertain, &c.

Secondly,

Secondly, That, &c. which appears by, &c. to be fraudulent and corrupt. Thirdly, That, &c. was not alive at the time of the said decree made in the said cause against your orators, and so could not be bound by the said decree; and consequently your orators ought not to be bound thereby; for all which said errors and imperfections in the said decree your orators have brought this their said bill of review; and humbly conceive they should be relieved therein: **In tender consideration whereof,** and for that there are divers other errors and imperfections in the said decree and proceedings, by reason whereof the same ought to be reviewed and reversed; and that the first decree made by, &c. ought to stand and be confirmed, &c. **To the end therefore** that the said last decree, and all the proceedings thereupon, may be reviewed and reversed, added, &c. and that the said, &c. may answer the premises; and that your orators may be relieved in all and singular the premises according to equity and good conscience, &c. May it please your Lordship to grant your orators his Majesty's writ of *subpœna* to revive and answer, directed to, &c. commanding them, &c.

*The Answer to the foregoing Bill, submitting to pay the Legacy under the Indemnity of this Court.*

*The joint and several Answers of E. W. and W. W. gent. Defendants, to the Bill of Complaint of J. W. an Infant, by J. W. his Father and next Friend, Complainant.*

**T**H E S E defendants now and at all times hereafter saving and reserving to themselves all manner of benefit and advantage of exception to the manifold errors and insufficiencies in the complainant's said bill contained, for answer thereto, or to so much thereof as these defendants are advised is material for them to make answer unto, they answer and say, they do admit that *J. W.* in the bill named, their late father deceased, did duly make and execute such last will and testament in writing in such date and to such purport and effect, and did thereby bequeath to the complainant *J. W.* such legacy of three hundred pounds in the words in the bill for that purpose mentioned, or in words to the like purport or effect; And these defendants further answering say, they do admit that the said testator *J. W.* did by such will appoint these defendants *E. W.* and *W. W.* executors thereof, and that the said testator died on or about the sixth day of *March* 1742, without revoking or altering the said will; and these defendants further answering say, that



that they do admit that they, these defendants, some time afterwards, *to wit*, about the month of *April* or *May* 1743, did duly prove the said will in the ecclesiastical court of *York*, and did take upon themselves the burthen of the execution thereof, and now have the probate of the said will in their custody ready to produce as this honourable court shall direct; and these defendants further answering do admit, that the said complainant *J. W.* by his said father and next friend did several times apply to them the said defendants (since the said legacy was payable), to have the same paid or secured for the benefit of the said complainant, which the defendants declined in regard the said complainant is an infant, and therefore these defendants (as they were advised) could not be safe in making such payments or in securing the said legacy, but by the order and direction, and under the sanction of a decree of this honourable court; and these defendants further answering say, that by virtue of the said will of the said testator they did seize and possess themselves of the real and personal estate, goods, chattels, and effects of the said testator, to a considerable amount, and do admit that assets of their said testator are come to their hands sufficient to satisfy the complainant's said legacy, and which assets they admit to be subject to the payment thereof, and are willing and desirous, and do hereby offer to pay the same as this honourable court shall direct, being indemnified therein; and these defendants deny all unlawful combination or confederacy in the said bill charged, without that, that there is any other matter or thing material or necessary for these defendants to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true: All which, &c.

*A Bill in Chancery brought by an Intestate's two Daughters to call the Widow to an Account for the personal and real Estate.*

**H** U M B L Y complaining, shew unto your Lordship, your oratrixes *M. D.* and *E. D.* of ——— in the county of ———, spinsters, daughters and coheirs of *W. D.* late of ——— aforesaid, Esq; your oratrixes being infants under the age of twenty-one years, *viz.* your oratrix *M.* of the age of seventeen years or thereabouts, your oratrix *E.* of the age of sixteen years or thereabouts, by Sir *S. A.* of ——— in the parish of ———, knight, their next friend, and the said *W. D.* your oratrix's late father, was in his life-time, and at the time of his death, seised in fee of some other good estate of inheritance, of and in divers messuages, tenements and lands, with the appurtenances, in the city of ———, and also of and in the manor

manor of —, and of and in the messuages, lands, tenements and hereditaments thereunto belonging or thereto adjoining, with the rents, members and appurtenances thereunto belonging, and also of and in several manors, and divers lands, tenements and hereditaments, with the appurtenances, in — and elsewhere in the kingdom of — of the yearly value in the whole of two thousand pounds and upwards, or other considerable yearly value, and that the said *W. D.* your oratrixes' said late father, was also in his life-time, and at the time of his death, possessed of, interested in, or intitled unto several goods and chattels real and personal, leases for years, and leases determinable on lives, ready monies, plate, household goods, a great stock of cattle, horses, implements of husbandry and other personal estate, amounting in the whole to the sum of one thousand pounds or other considerable value; and your oratrixes further shew, that your oratrixes' said late father being so seised and possessed of and in such real and personal estate as aforesaid, on or about the — day of — died intestate, leaving *D. D.* his widow and relict, (your oratrixes' mother) and your oratrixes his only daughters and coheirs, and of such ages as aforesaid: And your oratrixes further shew unto your Lordship, that on the death of your oratrixes' said late father, the said messuages, lands, tenements and premises, whereof he died seised as aforesaid, descended, remained, or came to your oratrixes as his daughters and coheirs, subject only to the right of dower or jointure of the said *D. D.* your oratrixes' said mother, in and to the same during her life; and by virtue of the statute for settling intestates' estates, the clear personal estate of the said intestate your oratrixes' said father, after debts and funeral charges paid and satisfied, ought to be distributed into three equal parts or shares, whereof the said *D. D.* your oratrixes' said mother is intitled to one third, and the other two third parts of the said personal estate ought to be equally divided between your oratrixes, being the only children of their said father living at his death: And your oratrixes further shew, that on their said father's death, the said *D. D.* your oratrixes' said mother, as guardian to your oratrixes, or otherwise in their right or on their behalf, entered and possessed herself of all and singular the said real estate of your oratrixes' said father, and hath ever since his death received and took the rents, fines, issues and profits thereof, and also raised considerable sums of money by and out of the said coal-pits within the premises; and she the said *D. D.* your oratrixes' said mother, also obtained letters of administration to be granted to her out of the prerogative court of *Canterbury* of the said intestate your oratrixes' said father's personal estate, and by virtue thereof your oratrixes' said mother possessed herself of the said intestate's goods, chattels and personal estate of

of such great value as aforesaid, or other great value, and hath fold or disposed of the same, and raised great sums of money thereby, to two third parts or shares whereof your oratrixes are intitled as aforesaid; and the said *D. D.* your oratrixes' said mother, having so entered upon and possessed herself of your oratrixes' said father's real and personal estate as aforesaid, and thereout and thereby raised and received great and considerable sums of money, your oratrixes well hoped their said mother would have come to a fait and just account with your oratrixes touching the same, and have paid and answered to your oratrixes what should appear justly due to them in respect of the premises, and that the money so due and belonging to your oratrixes as aforesaid, should have been from time to time put out and improved for your oratrixes' best benefit and advantage, as the same ought in equity and justice to be : *But now so it is,* may it please your Lordship, that the said *D. D.* your oratrixes' mother, combining and confederating herself with divers persons unknown to your oratrixes, whose names when discovered your oratrixes pray may be made parties to this bill, with apt words to charge them; in order to defraud and defeat your oratrixes in the premises, and having possessed herself of all the deeds and writings concerning your oratrixes' said father's estate, she the said *D. D.* your oratrixes' said mother (though in a dutiful manner requested thereto by your oratrixes) refuses to come to any account with your oratrixes touching the rents, issues or profits of their said father's real estate, or the particulars or values of the said intestate's personal estate, or how she the said *D. D.* your oratrixes' said mother hath administered or disposed of the same, and hath not as yet exhibited any inventory thereof (in the prerogative court of *Canterbury* as she ought to have done), your oratrixes' said mother sometimes pretending that your oratrixes' being infants, she need not account with them during their minorities, and that your oratrixes' said father was at his death indebted to divers persons on mortgages, judgments, and other real securities, and that she your oratrixes' said mother hath paid considerable sums of money in or towards the discharge or satisfaction thereof, and that she is intitled to her dower out of your oratrixes' said fathers' real estate, or otherwise to a jointure on the same or some part thereof, for payment of a yearly sum of money to her during her life, or to some such effect, and yet refuses to discover the same; and your oratrixes' said mother also pretends that your oratrixes' said father's personal estate was not considerable, or not of such real value as aforesaid, and that your oratrixes' said father was at his death indebted on bonds, securities, book-debts, debts by simple contract and otherwise, to several persons in considerable sums of money, in or towards satisfaction of which she hath applied the same, and that if any surplus money



manor of —, and of and in the messuages, lands, tenements and hereditaments thereunto belonging or thereto adjoining, with the rents, members and appurtenances thereunto belonging, and also of and in several manors, and divers lands, tenements and hereditaments, with the appurtenances, in — and elsewhere in the kingdom of — of the yearly value in the whole of two thousand pounds and upwards, or other considerable yearly value, and that the said *W. D.* your oratrixes' said late father, was also in his life-time, and at the time of his death, possessed of, interested in, or intitled unto several goods and chattels real and personal, leases for years, and leases determinable on lives, ready monies, plate, household goods, a great stock of cattle, horses, implements of husbandry and other personal estate, amounting in the whole to the sum of one thousand pounds or other considerable value; and your oratrixes further shew, that your oratrixes' said late father being so seised and possessed of and in such real and personal estate as aforesaid, on or about the — day of — died intestate, leaving *D. D.* his widow and relict, (your oratrixes' mother) and your oratrixes his only daughters and coheirs, and of such ages as aforesaid: And your oratrixes further shew unto your Lordship, that on the death of your oratrixes' said late father, the said messuages, lands, tenements and premises, whereof he died seised as aforesaid, descended, remained, or came to your oratrixes as his daughters and coheirs, subject only to the right of dower or jointure of the said *D. D.* your oratrixes' said mother, in and to the same during her life; and by virtue of the statute for settling intestates' estates, the clear personal estate of the said intestate your oratrixes' said father, after debts and funeral charges paid and satisfied, ought to be distributed into three equal parts or shares, whereof the said *D. D.* your oratrixes' said mother is intitled to one third, and the other two third parts of the said personal estate ought to be equally divided between your oratrixes, being the only children of their said father living at his death: And your oratrixes further shew, that on their said father's death, the said *D. D.* your oratrixes' said mother, as guardian to your oratrixes, or otherwise in their right or on their behalf, entered and possessed herself of all and singular the said real estate of your oratrixes' said father, and hath ever since his death received and took the rents, fines, issues and profits thereof, and also raised considerable sums of money by and out of the said coal-pits within the premises; and she the said *D. D.* your oratrixes' said mother, also obtained letters of administration to be granted to her out of the prerogative court of *Canterbury* of the said intestate your oratrixes' said father's personal estate, and by virtue thereof your oratrixes' said mother possessed herself of the said intestate's goods, chattels and personal estate of

of such great value as aforesaid, or other great value, and hath fold or disposed of the same, and raised great sums of money thereby, to two third parts or shares whereof your oratrixes are intituled as aforesaid; and the said *D. D.* your oratrixes' said mother, having so entered upon and possessed herself of your oratrixes' said father's real and personal estate as aforesaid, and thereout and thereby raised and received great and considerable sums of money, your oratrixes well hoped their said mother would have come to a fait and just account with your oratrixes touching the same, and have paid and answered to your oratrixes what should appear justly due to them in respect of the premises, and that the money so due and belonging to your oratrixes as aforesaid, should have been from time to time put out and improved for your oratrixes' best benefit and advantage, as the same ought in equity and justice to be : **But now so it is,** may it please your Lordship, that the said *D. D.* your oratrixes' mother, combining and confederating herself with divers persons unknown to your oratrixes, whose names when discovered your oratrixes pray may be made parties to this bill, with apt words to charge them; in order to defraud and defeat your oratrixes in the premises, and having possessed herself of all the deeds and writings concerning your oratrixes' said father's estate, she the said *D. D.* your oratrixes' said mother (though in a dutiful manner requested thereto by your oratrixes) refuses to come to any account with your oratrixes touching the rents, issues or profits of their said father's real estate, or the particulars or values of the said intestate's personal estate, or how she the said *D. D.* your oratrixes' said mother hath administered or disposed of the same, and hath not as yet exhibited any inventory thereof (in the prerogative court of *Canterbury* as she ought to have done), your oratrixes' said mother sometimes pretending that your oratrixes' being infants, she need not account with them during their minorities, and that your oratrixes' said father was at his death indebted to divers persons on mortgages, judgments, and other real securities, and that she your oratrixes' said mother hath paid considerable sums of money in or towards the discharge or satisfaction thereof, and that she is intituled to her dower out of your oratrixes' said fathers' real estate, or otherwise to a jointure on the same or some part thereof, for payment of a yearly sum of money to her during her life, or to some such effect, and yet refuses to discover the same; and your oratrixes' said mother also pretends that your oratrixes' said father's personal estate was not considerable, or not of such real value as aforesaid, and that your oratrixes' said father was at his death indebted on bonds, securities, book-debts, debts by simple contract and otherwise, to several persons in considerable sums of money, in or towards satisfaction of which she hath applied the same, and that if any surplus money

did or should remain in her hands on her accounts due to your oratrixes in respect of their said father's real and personal estates, that she cannot take upon her to put out such monies or any part thereof at interest, or otherwise improve the same, without the direction and decree of this honourable court for so doing; and your oratrixes' said mother refuses to come to an account with your oratrixes touching the premises, or pay and dispose the monies due to your oratrixes thereon for your oratrixes' benefit and advantage, as she ought in justice and equity to do. All which doings of the said *D. D. &c.* In tender, &c. **To the end** therefore that the said *D. D.* your oratrixes' said mother may true and perfect answer make to all and singular the premises as fully as if the same were herein again particularly repeated and interrogated, and particularly may set forth and discover what manors, messuages, lands tenements or hereditaments your oratrixes' said father, or any in trust for him, was seised or possessed of at the death of your oratrixes' said father, and where the same lie, and may set forth a true rental or other yearly value thereof, and what rents, issues or profits of the same, she, or any person or persons by her order, privity or knowledge, of or for her use, have or hath had, received or taken since the death of your oratrixes' said father; and may also set forth a particular account when and of whom she received the same, and what sum or sums of money she hath really and *bona fide* paid, disbursed or allowed out of or in respect of your oratrixes' said father's said estate, or any and what parts thereof, and the times when, and the persons to whom, and for what and on what account she paid and allowed the same; and may also set forth and discover what estate, right, title or interest the your oratrixes' said mother hath or pretends to claim in or to your oratrixes' said father's estate, or any and what parts thereof, either for or upon account of her dower, jointure or otherwise, and by what deed, settlement or conveyance she hath or claims any jointure or other provision (if any such there be) out of the said estate and premises, and when and upon what consideration really and *bona fide* such settlement or conveyance (if any such there be) was made; and also what deeds, evidences and writings your oratrixes' said mother hath in her custody or power concerning the said estate and premises, and may discover and produce the same as this honourable court shall think fit and direct; and that your oratrixes said mother may also set forth what personal estate your oratrixes said father died possessed of, interested in, or intitled unto, and may set forth a true and perfect inventory or account thereof, and the fair and true values of the same, and what part thereof hath come to her hands, power or possession, and the particulars, kinds, and true values of such parts of the same as hath come to her hands, possession, power, privity or knowledge,  
or



or of any person or persons in trust for her, and how she hath administered and disposed of the same, and what parts thereof she hath sold, and to whom, and for how much, or at what values, and if the same were the full and true values thereof respectively, and what sum or sums of money your oratrixes said mother hath at any time or times, and when, and of whom had or received, or raised thereby, and how she hath paid and applied the same, or any and what parts thereof, and when and to whom, and for what and upon what account, and whether such payments as she hath made out of, or in respect of the said personal estate for debts due from the intestate, or otherwise, were all and every part thereof really and *bona fide* made by your oratrixes said mother, and whether the monies by her brought to her account, to be paid of or on account of the said personal estate, were really and *bona fide* paid by her accordingly, and what part of the said personal estate is yet standing out and undisposed of, and the particulars, kinds, and true values thereof; and that your oratrixes said mother may come to a fair and just account with your oratrixes as well touching their said father's real and personal estate, and what is due and of right belonging to your oratrixes out of the same respectively, and that the clear surplus of the monies on such accounts due and belonging to your oratrixes, may be applied and disposed of for your oratrix's benefit and advantage, by putting out the same at interest, or otherwise improved as this honourable court shall think fit, and your oratrixes be relieved in all and singular the premises according to equity and good conscience. May it, &c.

*A Bill to discover a Title, and set aside a Recovery and Will suffered and made by a Lunatic by one Co-heiress against another, and that a Mortgage made by the Defendant may affect her Part only, and to be relieved with regard to a Partnership Debt, the Partnership being dissolved.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, shew unto your Lordship, your orator and oratrix *J. S.* of the parish of — in the county of —, and *E.* his wife, which said *E.* was one of the daughters and co-heirs of *C. W.* late of — in the county of — widow, deceased, and likewise one of the sisters and co-heirs of *J. W.* late of — aforesaid, gentleman, deceased, That the *C. W.* being seised and possessed of divers lands, tenements and hereditaments in fee-simple, situate, lying and being at — aforesaid, of the yearly value of —, or

thereabouts; and being minded to make some provision for her family, she by some deed or instrument duly executed by her conveyed and settled the same in the manner following, *to wit*, To herself for life without impeachment of waste, and from and after her decease to the said *J.* her eldest son, and the heirs male of his body; and from and after his decease without issue male, to *T. W.* her other son, and the heirs male of his body, and for default of issue male of the said *T.* then to her own right heirs, as in and by the said deed or instrument of settlement, had your orator and oratrix the same to produce, and to which for greater certainty therein your orator and oratrix crave leave to refer, doth more fully and at large appear: And your orator and oratrix further shew unto your Lordship, that some short time after she had executed the said settlement as aforesaid, *to wit*, in the year 1711, she the said *C. W.* departed this life, leaving issue the said *J.* and *T. W.* her said two sons and five daughters, namely, *A. M.* your oratrix *E. C.* and *S.* and that the said *J.* being tenant in tail of the said premises, he thereupon entered upon the same, and took possession thereof, and held and enjoyed the same home to the time of his death: And your orator and oratrix further shew unto your Lordship, that the said *T. W.* and *S. W.* respectively died unmarried in the life-time of the said *J.* and that the said *J.* departed this life on or about the twenty-second day of *November* 1739, unmarried and without any issue of his body, and that he did no act in his life-time whereby the said estate-tail became docked, or the remainders in the said settlement barred, and that by means thereof the said premises on his death by the said settlement became vested in the said *A. M.* your oratrix and *C.* the four surviving daughters of the said *C. W.* as her right heirs, and ought to be held and enjoyed in co-partnership by them: And your orator and oratrix further shew unto your Lordship, that immediately upon the death of the said *J. W.* the said *A.* your oratrix's said eldest sister, under pretence that she was thereunto privileged by priority of birth, entered into and took possession of the said premises, and hath enjoyed the same, and taken the rents and profits thereof to her own use ever since: And your orator and oratrix further shew unto your Lordship, that before your orator's intermarriage with the said *E.* his said wife, a partnership in trade had been entered into and carried on for seven years by and between the said *A.* and his said wife, that during the said partnership the sum of — was borrowed of *Mrs. S. W.* of —, in the county of —, a defendant herein after named, on the said partnership account: That upon his concluding the treaty of marriage with the said *E.* the said *A.* agreed that she would retain the said partnership effects to her own use, and in consideration thereof would take the payment of the said — to the said *Mrs. W.* on herself, and

and would alone become responsible to her for the same, and that in consequence thereof, upon their said marriage, an instrument of writing was executed between them for discharging the said partnership, and for the said *A*'s indemnifying your orator from the said — so borrowed of the said Mrs. *W.* as aforesaid; and the said *A.* having fraudulently got the said instrument or writing into her custody or power, refuses to produce the same, intending, by her concealment thereof, to retain the said partnership effects to her own use, and to throw the burthen of the said debt upon your orator: And your orator and oratrix charge, that on the said discharge or dissolution of the said partnership between the said *A.* and your oratrix, the said partners were possessed of a very considerable stock in trade, and divers considerable debts were standing out and owing from several persons to the said partnership amounting to a very great value, all or the greatest part whereof the said *A.* hath either caused to be got in for her use, or hath personally received the same; and your orator being intitled in the right of his said wife to one fourth or quarter part of the said premises, and also to a moiety of the said partnership effects as aforesaid, he hath often applied to the said *A. W.* and in a friendly manner intreated her to let him into the possession thereof, and to account with him for the rents and profits thereof from the death of the said *J. W.* and to pay the said debt so due to the said Mrs. *W.* as aforesaid, or otherwise to deliver up the said instrument or writing to your orator, that he may thereby be enabled to do himself right in case he should be sued for the same, or to account with him for a moiety of the said partnership effects; and your orator well hoped, that the said *A.* knowing that your orator was well intitled thereunto as aforesaid, would have complied with your orator's request, as in justice and equity she ought to have done: **But now so it is,** may it please your Lordship, that the said *A. W.* combining and confederating herself to and with the said *S. W.* and to and with divers other persons, at present unknown to your orator and oratrix, whose names, when discovered, your orator and oratrix humbly pray may be inserted in this their bill of complaint, with apt words to charge them as parties hereunto, now to defeat your orator and oratrix of the said fourth or quarter part of the said premises so come to your oratrix as aforesaid, and to load your orator with the said partnership debt, so due and owing to the said *S. W.* she the said *A.* pretends, and gives out in speeches, that she is well intitled to the whole premises, by virtue of some devise or general words in the will of her said mother, and that her said mother *C. W.* never made any such settlement thereof, as is herein before set forth; at other times she admits, that the said *C. W.* duly execute such settlement; and that the said *J.* upon her death,



death, entered upon the said premises, and enjoyed the same as tenant in tail thereof, and that he, by fine and recovery levied and suffered by him, docked the said entail, and barred the said remainders, and by indentures leading the respective uses thereof had declared the same to be to the use of himself and his heirs for ever; and that being by means thereof seised of an absolute estate in fee-simple in the said premises, he, by his last will and testament in writing, duly executed, and bearing date on or about the twenty-sixth day of *August* 1725, gave and bequeathed unto the said *A.* the sum of ——— and to all his other sisters the sum of ——— a-piece, and to one Mrs. *C. S.* the sum of ——— and devised the remainder of his estate, whether real or personal, unto the said *A.* and her heirs for ever, and that she therefore claims the said whole premises, under the will of her said brother *J. W.* who she insists had full power to dispose thereof as he thought proper; whereas your orator and oratrix charge, and doubt not but they shall be able to prove the same to be true, that the said *J. W.* was utterly incapable of levying any fine, or suffering any recovery in order to dock the said intail, and bar the said remainders so limited by the said settlement as aforesaid, or of making any will to dispose of his real estate, if any such he was intitled to, other than as aforesaid; he the said *J. W.* having been a lunatic without any lucid interval from his age of twelve years, and continued so to the time of his death; and your orator and oratrix charge, that if it shall appear that the said *J. W.* had an estate in fee-simple in the said premises, which your orator and oratrix by no means admit, yet that for the reason last mentioned, he could by no means lawfully dispose thereof, either by will or otherwise, but the same are descended and come to his said four sisters *A. M. E.* and *C.* as his heirs at law; and that your orator in the right of his said wife is thereby become intitled unto one fourth or quarter part thereof, and ought to be put in possession of the same, and to have an account of the rents and profits thereof from the death of the said *J. W.* her said brother; at other times she the said *A.* denies that any sum of money whatsoever was borrowed of the said *S. W.* by her and your oratrix *E.* on the said partnership account, or that any instrument or writing was executed by her upon your orator and oratrix's said intermarriage, to indemnify your orator therefrom, but insists that the said sum of ——— was the sole and separate debt of your oratrix *E.* and borrowed for her own use independent of the said partnership, and being in possession of the said instrument or writing, sets your orator at defiance as to any remedy he can have against her for the same, or any part thereof; and the said *S. W.* knowing that the said *A.* conceals and secretes the said instrument or writing, and confederating with her

her how to oppress your orator therein, threatens to sue your orator for the same, and to compel him to make payment thereof; and the said *S. W.* admits the same to be the sole and proper debt of the said *A.* although your oratrix became a joint security with her for the same, or otherwise that the same was borrowed on the said partnership account, and that she by virtue of the said agreement between her and your orator, and for the considerations aforesaid had taken the same upon herself, and hath often acknowledged that she knew the circumstances of the said *A.* to be very good, and that she should rely singly upon her for the payment of the said money, or to that or the like effect; at other times the said *A.* pretends, that the said stock and effects of the said partnership were very trifling and inconsiderable at the time that the said partnership was so discharged or dissolved as aforesaid, and not an equivalent for her discharging or indemnifying your orator from paying his share and proportion of the said debt, but denies that your orator in right of his said wife, is intitled to a moiety or any other part thereof; whereas your orator and oratrix strictly charge, that the said partnership effects were of a considerable value, and the said *A.* very well knew the said agreement to be a very beneficial one on her part, and hath often promised your orator and oratrix to perform the same, or to account with your orator for a moiety of the said partnership effects; at other times the said *S. W.* pretends and insists, that she has some mortgage or other incumbrance on the said premises at — aforesaid, but refuses to discover to your orator and oratrix by whom the same was made or done, and for what sum or sums of money really and *bona fide* advanced and lent by her thereon: whereas your orator and oratrix charge, that if any such mortgage shall appear to be made or done, the same was made and done by the said *A.* solely since the death of the said *J.* and can only affect her interest in the said premises. All which actings, doings, and pretences of the said confederates are contrary to equity and good conscience, and tend most apparently to your orator and oratrix's great injury and wrong: **In tender consideration** whereof, and forasmuch as your orator and oratrix are altogether remediless in the said premises at common law, and cannot be relieved therein but by the favourable aid and assistance of a court of equity, where matters of fraud and of this nature are properly to be discovered and inquired into, and the rather, for that your orator and oratrix's witnesses, who would prove the truth of the said premises, are either dead or gone into parts remote and beyond the seas, and unknown to your orator and oratrix by means whereof your orator and oratrix are deprived of the benefit of their testimonies: **To the end**, therefore, that the said *A. W.* and *S. W.* and the rest of the confederates, when

discovered, may true, distinct, and perfect answer respectively make to all and singular the matters and things herein and hereby charged, and that in as full and ample a manner as if the same were here again particularly repeated and interrogated; and that the said *A. W.* in particular may set forth and discover whether the said *C. W.* your oratrix's said late mother, was not seised in fee-simple, or how otherwise, of the said premises at ———— afore said, of the yearly value of ———— or thereabouts, or of what other yearly value, and whether she did not make such settlement thereof as is herein before set forth, or any other and what settlement thereof, and of what date the same is, and of what kind and nature, and between what parties, and by whom executed, and what are the names of the subscribing witnesses thereto, and in whose custody or power the same now is or late was, and when and whether the said *C. W.* is not since dead, and when she died, and what issue she left behind her at the time of her death, and whether immediately upon her death the said *J. W.* her eldest son as tenant in-tail under the said settlement, or how otherwise, did not enter upon the said premises, or any and what part thereof, and take possession thereof, and hold and enjoy the same to the time of his death; and whether the said *T. W.* and *S. W.* did not respectively die in the life-time of the said *J.* unmarried, and whether the said *J.* did not, at or about his age of twelve years, or at or about any other and what age, become a lunatick without any lucid interval, and whether he was at any time, and when afterwards, capable of levying any fine, or suffering any recovery to dock the said intail and bar the said remainders in the said settlement, and when and whether he was of sound mind and memory at the time when he made and executed his said will, and how long he had been so before the making and executing thereof and whether he continued to be so any time afterwards and how long, and by whose advice was the same made and where, at what place, and about what time was such will made and executed, and who drew or prepared such will, and where did such person who drew or prepared the said will, and the persons that were witnesses thereto at the time of drawing or preparing the said *J. W.*'s will and execution thereof, respectively live or reside, and where do such persons now lie, lodge, reside, or may be met with or heard of, and whether he said *J. W.* is not since dead unmarried, and without issue, and whether the said *A. M.* your oratrix *E.* and *C.* are not the only daughters and right heirs of the said *C. W.* and the only sisters and heirs at law of the said *J. W.* and whether upon the death of the said *J.* and how long after, or when otherwise, she the said *A.* did not enter upon the said premises, and take possession thereof, and receive the rents and profits thereof, and why and whether



whether she doth not now continue in the reception thereof, and what is the clear yearly produce thereof, and whether your orator in the right of his said wife is not now become intitled to one full fourth or quarter part of the said premises, and to a full fourth or quarter part of the rents and profits thereof from the death of the said *J. W.* or how otherwise, and whether previous to your orator's said intermarriage with his said wife, and how long, a partnership in trade was not entered into and carried on by and between the said *A.* and your orator's said wife, and during the said partnership the said sum of ——— was not borrowed of the said other defendant *Mrs. S. W.* on the said partnership account, or how otherwise, and by whom and why, whether upon the said marriage being concluded between your orator and his wife, it was not agreed that the said *A.* should retain the said whole partnership effects to her own use, and that in consideration thereof she should take the payment of the said sum of ——— on herself, and alone become responsible to the said *S. W.* for the same, and whether, in consequence thereof, an instrument or writing was not executed by and between them for discharging the said partnership, and for the said *A.*'s indemnifying your orator from the said sum of ———, or to what other purport and effect, and of what date, and in whose custody or power the same now is, or late was, and when and how long it was since she last saw the same, and whether she doth not conceal and secrete the same, and why, and whether at the time of the said discharge or dissolution of the said partnership as aforesaid the said partners were not possessed of a very considerable stock in trade, and of what the same particularly consisted, and whether divers debts were not standing out and owing from several persons to the said partnership, and whether she hath not received, or cause to be received, all or the greatest part thereof, and to what value the said partnership effects in the whole amounted unto; and that the said *S. W.* may set forth and discover when and by whom the said sum of ——— was borrowed of her, and whether the same was not the sole and proper debt of the said *A. W.* although your orator became a joint security with her for the same; and whether, if the same was borrowed on the said partnership account, she hath not since acknowledged, and to whom, that she knew of the said instrument or writing's being executed by and between the said *A.* and your orator, and that for the consideration herein before mentioned the said *A.* had taken the same upon herself, and that she knew the said *A.*'s circumstances to be very good, and should rely singly upon her for the payment of the said debt, or to that or the like effect; and whether she hath not since threatened to sue your orator for the same, and to compel him to make payment thereof, and why, and whether she hath any mortgage, or other

other and what incumbrance on the said premises at ——— afore-  
 said, and by whom the same was made or done, and when and  
 for what sum or sums of money really and *bona fide* advanced and  
 lent by her, and to whom; and that the said *A.* may produce  
 the said settlement, or set forth the same *in hac verba* in her an-  
 swer hereunto, and that the said will of the said *J. W.* may be  
 declared to be null and void, and absolutely set aside as against  
 your orator and oratrix, and your orator be put into the possession  
 of one full fourth or quarter part of the said premises in right of  
 his said wife, and that the said *A.* may account with your orator  
 and oratrix, and pay them one full fourth or quarter part of the  
 rents and profits of the said premises so received by her as afore-  
 said, and may likewise produce and deliver up to your orator the  
 said instrument and writing so entered into between them as  
 aforesaid, and further indemnify and save harmless your orator  
 from the said debt of ——— so owing to the said *S. W.* as afore-  
 said, or may otherwise account with your orator for a moiety of  
 the said partnership effects, and pay and deliver over the same to  
 your orator, and that the said mortgage or other incumbrance so  
 made or done by the said *A. W.* to the said *S. W.* may be de-  
 clared to affect the interest only of the said *A.* in the said pre-  
 mises, and that the said *S. W.* may be restrained from proceed-  
 ing at law against your orator for recovery of her said debt by  
 injunction of this honourable court, and that your orator and ora-  
 trix may be further and otherwise relieved in the said premises  
 according to equity and good conscience, and as the nature and  
 circumstances of their case shall require. May it please your  
 Lordship, &c.

*Certiorari Bill.*

*To the Right Honourable Edward Lord Thurlow, Baron of  
 Ashfield, in the County of Suffolk, Lord High Chancellor,  
 &c.*

**H**UMBLY complaining, sheweth, &c. Your orator  
*A. B.* &c. that whereas, &c. (*setting forth the cause  
 prosecuted in the Lord Mayor's court*): All which said premises  
 your orator hopes he shall make fully appear by several witnesses  
 if need be, which he could not produce within the said city of  
*London* before the said Lord Mayor and his brethren the Alder-  
 men of the city of *London*: Your orator shewing unto your  
 Lordship, that one *E. F.* a material witness for your said orator  
 concerning the said premises at the time of the cause, &c. then  
 lived and resided, and still liveth and resideth at *Westminster*,  
 without

without the jurisdiction of the said Lord Mayor and his brethren the Aldermen of the city of *London*, whereby your orator had no remedy to compel the said *E. F.* to be examined, or to give his testimony in the said cause in the city of *London* concerning the premises; **In tender consideration whereof**, and forasmuch as for want of jurisdiction in the said Lord Mayor and his brethren the Aldermen of the said city of *London* over your orator's witnesses, your orator is remediless there; and it being agreeable with the rules and practice of this honourable court, upon such necessities and defects of jurisdiction in inferior courts, for this high and honourable court to remove the records and proceedings thereof into this honourable court, and to proceed in this court upon the same, and all other matters and things incident thereto, or whereupon your orator seeks relief. May it please your Lordship, therefore, not only to grant unto your orator a writ of *Certiorari* to be directed to the said Lord Mayor of the city of *London*, and his brethren the Aldermen of the said city, thereby commanding them upon the receipt of the said writ, to certify and remove the records of the said cause, &c. and all proceedings thereupon into this honourable court; but also to grant unto your orator his Majesty's most gracious writ of *subpoena* to be directed to the said *C. D.* &c. thereby commanding them and every of them, at a certain day and under a certain pain therein to be limited, personally to be and appear before your Lordship in the high and honourable court of *Chancery*, then and there upon their corporal oaths fully and directly to answer all and singular the premises, and to set forth and discover whether, &c. and whether it was not declared and agreed, &c. and whether the said *C. D.* &c. be not indebted unto your said orator, and in what sum, and that your said orator may be righted and relieved in all and singular the premises according to equity and good conscience: And that the said defendants may stand to, observe, and perform such order and decree therein, as your Lordship in your great wisdom shall think just and meet.

*A Bill in order to establish the Custom of a Manor.*

*To the Right Honourable, &c.*

**H**UMBL Y complaining, shew unto your Lordship, your orator and oratrixes *W. W.* of, &c. in the county of \_\_\_\_\_, Esq.; and the honourable *C. W.* his wife, and the honourable *M. G.* spinster, that your oratrixes *C. W.* and *M. G.* are aunts and co-heirs at law of the Right Honourable *C.* late Lord



Lord *P.* deceased, who at the time of his death (which happened on or about the twenty second day of *February* which was in the year 1738,) was seised in fee, of and in the barony of ——— and the manor of ———, within the county of ——— and the rights, members, and appurtenances belonging thereto, that upon the decease of the said late Lord *P.* (who died without issue male) the said premises descended to, and became vested in, your oratrixes in fee as aunts and co-heirs at law of the said Lord *P.* And your orator *W. W.* in right of your oratrix *C.* his wife, and your oratrix *M. G.* now are, and ever since the decease of the said late Lord *P.* have been seised in fee, and in actual possession of the said barony and manor, and all the rights, members, and appurtenances belonging to the same; and your orator and oratrixes further shew, that there are, and time out of mind have been, divers ancient customary messuages, lands, and tenements within and parcel of the said manors, and held of the same, and descendible from ancestor to heir, according to the custom of the said manor, and holden thereof under the payment to the lord or lady, for the time being of the said manor, of certain ancient yearly rents for the said customary messuages and tenements respectively, and of a fine upon every grant thereof, made by the lord or lady for the time being, of the said manor, to the tenants thereof respectively, and under payment of certain heriots, and doing suit and service at the courts of the said manor, according to the custom thereof; and your orator and oratrixes further shew, that the said customary messuages, lands, and tenements respectively, are, and time out of mind, by the usage and custom of the said manor, have been grantable and granted by the lord or lady of the said manor for the time being, by deed executed by him or her, and by admittance thereupon made or granted by such lord or lady, or his or her steward for the time being, of the said manor; and more particularly your orator and oratrixes charge, that amongst other customary tenements, parcel and held of the said manor as aforesaid, there are, and time out of mind have been, an ancient messuage, and two hundred acres of customary land called *K.* situate and lying within the said manor, which are, and time out of mind have been, a customary messuage, and lands, and parcel and holden of the said manor as aforesaid, according to the custom thereof, and granted and grantable as aforesaid; and that the same are now held by *T. H.* of *D.* in the county of *C.* and *T.* his wife, in her right, by and under such customary deed and admittance as aforesaid, according to the ancient and laudable custom of tenant-right within the said manor; and your orator and oratrixes expressly charge, that the said deed and admittance now  
are

are in the custody or power of the said *T. H.* and *T.* his wife, or one of them; and that by the ancient usage and custom, time out of mind used and obtained within the said manor, no customary tenant of the said customary estate called *K.* or of any other of the customary lands, parcel and held of the said manor as aforesaid, has or have any right or title to fell or cut down any timber growing thereon, save and except for the necessary repairs of their respective customary tenements, and for necessary botes to be used upon their respective customary tenements, and that only after such timber has been assigned and set out for that purpose by the bailiff or agent for the time being of the then lord or lady of the said manor; and that agreeable to the said last mentioned custom, and in confirmation thereof by the said deed or indenture of the said *K.* under which and the said admittance the same is now held as aforesaid, it is covenanted by the tenant or grantee therein named, for himself, his heirs and assigns, to and with the lord of the said manor, his heirs and assigns, that such grantee, his heirs or assigns, should not, nor would fell or cut down any timber on the said customary lands called *K.* so granted to him as aforesaid, or any part thereof, save for such necessary repairs and botes as aforesaid, by and after such assignment thereof, to be made to him as aforesaid, as by the said deed and admittance, when produced to this honourable court, and to which your orator and oratrixes crave leave to refer, relation being thereunto respectively had, may more fully appear: And your orator and oratrixes further shew, that there now is a great quantity of timber, and till lately, as herein after is mentioned, was a much greater quantity thereof growing or standing on the said customary lands called *K.* and that all such timber was and is respectively the property of and belongs to your orator and oratrixes as parcel of the freehold and inheritance of the said land whereon such timber grew or stood, or now grows, the freehold and fee of which lands are vested in your orator and oratrixes, as lord and ladies of the said manor aforesaid: **But nevertheless so it is,** may it please your Lordship, that the said *T. H.* and *T.* his wife, having entered into combination and confederacy with divers other persons, as yet unknown to your orator and oratrixes, whose names, when discovered, your orator and oratrixes pray leave to insert in this their bill of complaint, with apt matter to charge them, and every of them, as defendants hereto; with intent to injure your orator and oratrixes, and convert all the said timber to the use of the said *T. H.* and *T.* his wife, he the said *T. H.* did, in or about the month of *July* last, cause fifty-six oak timber trees of considerable value to be felled and cut down in and upon the said customary lands called *K.* without any licence or assignment by or from your orator or oratrixes,

OR

or by any bailiff or agent of theirs, or any of them for so doing; whereas your orator and oratrixes expressly charge, that by the custom of the said manor, and also by the said deed or indenture under which the said customary lands called *K.* are now held as aforesaid, the tenants and occupiers of the said customary lands called *K.* are expressly restrained from cutting, felling, or taking any timber or wood in or upon the same, except for necessary repairs, and botes to be assigned them respectively as aforesaid; and your orator and oratrixes also charge, that the said timber and wood so cut down by the said *T. H.* or his order as aforesaid, was not, nor is necessary to be used in or for any repairs of or about the houses and buildings, or any of them, on the said customary tenement called *K.* or for necessary botes; and that, at the time the said timber or wood was so cut down as aforesaid, there was a considerable quantity of timber and wood lying upon the said lands and estate called *K.* which had been cut down by the said *T. H.* and *T.* his wife, or one of them, or their or one of their order, about three or four years ago, and which was more than sufficient for all the repairs of the buildings, upon the said premises, and for necessary botes to be used upon the same; and that there was not then, nor now is any occasion, on account of any repairs of or about the said premises called *K.* or for necessary botes to be used upon the same premises, to cut down any more or other timber or wood upon the same; notwithstanding which, the said *T. H.* not only refuses to make your orator and oratrixes satisfaction for the said timber and wood so cut down by him as aforesaid (although several times applied to for that purpose); and your orator and oratrixes have offered, and do hereby offer to waive all penalties and forfeitures for cutting the same; but the said *T. H.* and *T.* his wife give out, that they will cut down all such other timber and wood upon the said premises as they shall think fit. **In consideration whereof,** and forasmuch as your orator and oratrixes are remediless in the premises, and cannot restrain the said *T. H.* and *T.* his wife from committing farther waste or spoils in the timber growing on the said lands and estate called *K.* nor can have a discovery of the quantities and value of the said timber so cut down as aforesaid, and compel the said *T. H.* to make your orator and oratrixes satisfaction for the same, without the aid and assistance of this honourable court; **To the end therefore** that the said *T. H.* and *T.* his wife may, and their confederates as discovered, upon their respective oaths, full, true and perfect answer make (to the best of their respective knowledge, information, and belief) to all and singular the matters and things hereinbefore charged as fully and particularly as if the same, and every of them, were here particularly repeated and they thereunto interrogated; and more especially that the said *T. H.* and *T.* his wife may set forth, whether your  
orator



orator and oratrixes are not lord and ladies or owners of the said barony of *L.* and of the said manor of *N.* herein before mentioned, and whether, as such, they are not seised in fee or otherwise, and how, of and intituled to the freehold and soil of all the said customary lands called *K.* and all timber and wood standing or growing thereon, and whether the same are not now holden by the said *T. H.* and *T.* his wife, in her right or otherwise; and how, by, and under such deed and admittance as hereinbefore mentioned, or by or under what other right or title, and whether such covenant or restriction concerning the cutting or felling of timber and wood as herein before is mentioned, is not contained therein, and whether they have any, and what right to cut down any, and what timber or wood, in or upon the said lands so held by them, except for the necessary repairs of the houses and buildings thereon, and for necessary botes, and that by and with the licence and assignment of the lord or lords of the said manor, or their bailiff or agent for the time being; and whether there is not a considerable, or some and what quantity of timber standing and growing upon the said customary estate called *K.* and of what value the same is, and whether the sole property thereof is not in your orator and oratrixes as aforesaid, and whether he the said *T. H.* and *T.* his wife, has or have, or pretend to have any and what right or title thereto, or to any, and what part thereof; and that they may set forth the deed and admittance, or other and what title they hold the said lands and estate called *K.* and whether the person to whom the same was granted was not by such deed restrained from cutting or felling any timber upon the said customary estate (save, as aforesaid); and that the said *T. H.* and *T.* his wife may set forth, whether they, or one and which of them, did not in or about the month of *July* last, or at some and what other time or times, cause fifty-six oak trees, or some other, and what number of oak or other trees, and of how many years growth, to be cut down and fallen in and upon the said lands called *K.* and whether the same were not so cut or fallen without the licence or assignment of your orator and oratrixes, or any agent or bailiff of theirs, and without any assignment of any such bailiff or agent; and by what right, title, power, or authority the same were so cut down or fallen; and that they may set forth the respective dimensions and values of each and every of the said trees so cut down by them or either of them, or by their, or either of their order as aforesaid; and that he the said *T. H.* may account and make satisfaction to your orator and oratrixes for the same; and that the said *T. H.* and *T.* his wife may be restrained by the order or injunction of this honourable court from felling or cutting down any timber or wood for the time to come in or upon the said lands held by them of the said manor

nor as aforesaid, without the assignment of your orator and oratrixes, or their bailiff or agent; and that your orator and oratrixes may have such further and other relief in the premises, as the nature of their case requires, and as shall be agreeable to equity and good conscience. May it please your Lordship, &c.

*A Bill to open an Account settled by the Intestate, for Fraud and Duress.*

*To the Right Honourable, &c.*

**H**UMBLY complaining shew unto your Lordship, your orators *C. C.* only son and sole heir of *C. S.* late of — in —, merchant, deceased, and *J. R.* of *B.* in the county of —, Esq.; administrator of all and every the goods and chattels, rights and credits which were the goods and chattels, rights and credits of the said *C. S.* at the time of his death. That some time in the year of our Lord —, *T. C.* of *London*, merchant, and *L. M.* of the same place, merchant, both trading to — in —, and being willing and desirous to unite, did come to a treaty with each other to unite their stock in the said trade to the said — and other parts; and finding it necessary to state both their accounts, in order to the adjusting the terms of the then intended union, they did jointly and severally appoint and authorise their agents to examine and state the accounts of the several merchants in — with whom the said *T. C.* and *L. M.* or either of them, had had any dealings; and thereupon the said *T. C.* and *L. M.* did duly and sufficiently authorise *J. G.*, *S. C.*, *E. B.*, and *J. R.* concerned as agents for the said *T. C.* and *L. M.* residing at — aforesaid, to state and settle the accounts then depending between the said *T. C.* and *L. M.* and the said *C. S.* And the said *T. C.* and *L. M.* by their said agents duly authorised as aforesaid, some time in the said year, came to an account with the said *C. S.* touching all dealings that had been between them, as well concerning money borrowed and received by the said *T. C.* and *L. M.* or either of them, of and from the said *C. S.* and goods and merchandizes of his that had been sold and delivered by him to them, or one of them, as concerning business done by him for them, and at their request, and concerning all other matters of account then depending between them; and upon that account the said *T. C.* and *L. M.* were found justly and truly indebted unto the said *C. S.* in the sum of —, being foreign money of the value of — each; and

and thereupon the said agents, they being fully authorised by them the said *T. C.* and *L. M.* in this behalf, did for securing the repayment of the said sum of ——— give unto the said *C. S.* the four following bonds, all duly signed, sealed, and executed by the said *J. G.*, *S. C.*, *E. B.*, and *J. R.* and which has always been used there and esteemed to be binding to the said *T. C.* and *L. M.* since their union, bearing date on or about the ——— day of ——— in the year of our Lord ———; that is to say, one bond by which the said agents did acknowledge to have borrowed and received of one *V. V.* the sum of ———, current money of that place; which said sum, with the interest thereof, after the rate of ——— by the hundred, by the month of thirty days, they the said agents did oblige themselves, their heirs, executors, and administrators, for and on behalf of the said *T. C.* and *L. M.* to repay on demand; and the other bond of like form, whereby the said agents did acknowledge to have borrowed and received of one *B. G.* the sum of ——— of like money; which sum with interest thereof after the same rate, they did oblige themselves, their heirs, executors, and administrators, for and on behalf of the said *T. C.* and *L. M.* to repay on demand; and one other bond of like form, whereby the said agents did acknowledge to have borrowed and received of one *S. N.* the sum of ——— of like money; which sum, with the interest thereof after the same rate, they did oblige themselves, their heirs, executors, and administrators, for and on behalf of the said *T. C.* and *L. M.* to repay on demand; and one other bond of like form, whereby the said agents did acknowledge to have borrowed and received of one *C. B.* the sum of ——— of like money; which sum, with the interest thereof after the same rate, they did oblige themselves, their heirs, executors, and administrators, for and on behalf of the said *T. C.* and *L. M.* to repay on demand, as in and by the said four bonds, had your orators the same to produce, might appear: And your orators further shew, that the said *V. V.*, *B. G.*, *S. M.* and *C. B.* were merely trustees or agents for the said *C. S.* and that the said bonds were given to him in their names, and for his use only, it being usual in ——— in the dominions of ——— to take securities for money in fictitious names, or in the names of trustees, or persons deceased, in order to conceal their substance from the governors of those provinces, and to prevent arbitrary taxes and impositions from being imposed upon them, and that they did severally and respectively indorse and assign the said bonds to the said *C. S.* or the property and right of the said bonds, and every of them, and the money secured was thereby or otherwise legally and rightfully vested in him the said *C. S.* according to the laws of the country, and nature and method of transacting such affairs; and your orators expressly charge, that the said *C. S.* was the pro-



Priotor of the said bonds, and admitted and acknowledged to be such as well by the said *T. C.* and *L. M.* as by the said *J. G.*, *S. C.*, *R. B.*, and *J. R.* and other the said *T. C.* and *L. M.*'s agents in —, and several considerable sums were actually paid by them to the said *C. S.* upon account of the said bonds, or the interest thereof; and your orators charge, that the said rate of interest is a fair, usual, and lawful interest for the forbearance of money in that country. And the usual and constant method of stating accounts of interest in that country is, at the end of every year to compute the interest then due as principal, and compute interest upon the same from the end of such year. And your orators further charge, that the said *V. V.*, *B. G.*, *S. N.*, and *C. B.* are all of them persons residing in — out of the dominions of his Majesty, and out of the jurisdiction and the reach of the process of this honourable court, and in parts unknown to your orators. And your orators further shew, that the said bonds so given were true and proper evidences of a debt due from the said *T. C.* and *L. M.* to the said *C. S.* and a charge upon them the said *T. C.* and *L. M.* and such as were usually given by their direction and authority for the securing of their just debts, and generally submitted to in other cases; and that they were actually given to the said *C. S.* upon account of so much money really and justly due from the said *T. C.* and *L. M.* as aforesaid, upon the stating of the said account. And your orators further shew, that some time after the stating of the said accounts, and giving the said bonds as aforesaid, the said *T. C.* and *L. M.* united their said stocks, and were united into one company, and by virtue of their union, and otherwise, the said *T. C.* and *L. M.* are chargeable with and ought to pay all their and each of their just debts and demands, and particularly the monies secured or mentioned to be secured by the said bonds so as aforesaid given to the said *C. S.* And the said *T. C.* and *L. M.* did actually allow in account to the said *C. S.* interest after the rate aforesaid, for the said sum of —, mentioned in the said bonds until the month of — or — in the year —. And your orators shew, that on or about the — day of — in the year —, *J. B.* and *J. H.* being servants and agents of the said *T. C.* and *L. M.* and acting on their behalf and by their direction, sent for the said *C. S.* to come to them on board a ship called the —, then lying at — bar in —, under pretence to state his accounts as they then stood with the said *T. C.* and *L. M.* And your orators expressly charge, that at that time the principal monies due to the said *C. S.* upon the said bonds, together with the interest thereof after the rate aforesaid (which was the same rate of interest as the said *T. C.* and *L. M.* always charged the said *C. S.* with for such money and goods as they had at any time advanced to him) amounting

amounting to ——— and discounting thereout all such monies and the full value of all such goods as he had received from or upon account of the said *T. C.* and *L. M.* with compound interest as aforesaid, and all demands whatsoever which they had upon him, there would have remained due from the said *T. C.* and *L. M.* to the said *C. S.* at that time the sum of ——— and upwards, upon the balance of all accounts: And your orators further shew, that instead of stating accounts with the said *C. S.* in a fair and regular manner, as he hoped they would have done, that they the said *J. B.* and *J. F.* took him the said *C. S.* into custody, and confined him on board the said ship, without his receiving any meat or drink, or having any refreshment or relief of nature whatsoever for the space of ——— or for some other long space of time; he the said *C. S.* being, as they well knew, forbidden, by the religion which he professed and was of, to take any refreshment or relieve nature in any manner whatsoever elsewhere than upon dry land; and the said *J. B.* and *J. F.* or one of them, during the said time, used great cruelty towards him the said *C. S.* frequently threatening to take away his life, unless he would comply with their proposals, which were to sign an agreement to deliver up his said bonds, and to give some release or discharge for the money due to him thereupon, upon his receiving ——— and being discharged from a debt of ——— due from him to the said *T. C.* and *L. M.* which arose from the money and goods which he had received upon account of the said *T. C.* and *L. M.* and compound interest for the same after the rate aforesaid; but the said *C. S.* did for a long time and with great firmness refuse to comply with such unjust proposals, and offered to state his accounts with the said *T. C.* and *L. M.* upon a fair and reasonable foot, and allow all their just demands and objections; but the said agents of the said *T. C.* and *L. M.* or one of them, arbitrarily insisted upon defalking the greatest part of what was due upon the said bonds, without giving any reason for the same, threatening the said *C. S.* that if he would not comply with their demands, they would carry him to ——— where he should settle his accounts, meaning that he should settle his accounts in prison; and your orators farther shew, that the said *C. S.* being reduced to the greatest extremity by the aforesaid cruel confinement, and having no other way of obtaining a release from the same, he was thereby forced and prevailed upon to sign some instrument, purporting to be an agreement to the effect before mentioned; upon which he was permitted to go on shore, and within a few days afterwards he was again applied to by the said *J. H.* and *J. B.* and others, the servants and agents of the said *T. C.* and *L. M.* and required to perform the said agreement, and deliver up his said bonds, upon their discharging him in the

name and on the behalf of the said *T. C.* and *L. M.* from the said demands of ———; but the said pretended agreement having been so unduly extorted from him, he the said *C. S.* at first absolutely refused to comply therewith; upon which the said servants and agents of the said *T. C.* and *L. M.* again renewed their threats and menaces, and not only threatened violence to his person, but also threatened to complain of him to ——— who was an officer of great power and authority under the ———, and use the influence and interest of the said *T. C.* and *L. M.* against him, and also threatened, that they would not only insist upon the said writing of agreement, so unjustly obtained, in bar of any claim upon the said bonds, and that the said *T. C.* and *L. M.* would never pay any money upon account of the said bonds, but would also prosecute him the said *C. S.* upon their demands against him; and he the said *C. S.* at first refused to come to the said *J. H.* and the other servants and agents of the said *T. C.* and *L. M.* who sent for him for the purposes aforesaid, representing to them, that he was afraid to come to them, lest he should be treated there as he had been on board the said ship, which he explained to be by putting him under confinement, and terrifying him by threatening to take away his life; upon which the said *J. H.* acquainted the said *T. C.* and *L. M.* with this answer of the said *C. S.* who thereupon thought fit to give some assurances to the said *C. S.* by the said *J. H.* that he should not have any force offered to him, but should be treated in a friendly manner; and upon such assurances the said *C. S.* came to the said *J. H.* or some other agent or agents of the said *T. C.* and *L. M.* and grievously complained of the great injury done him by the said *T. C.* and *L. M.* in forcing him by such undue means to relinquish so great a part of his just demands; but the said *J. H.* and other the agents of the said *T. C.* and *L. M.* absolutely refusing on the part of the said *T. C.* and *L. M.* to pay him any thing, or to settle his account upon any other footing than that of the said pretended and unjust agreement; and he the said *C. S.* having no way to compel the said *T. C.* and *L. M.* in that country to discharge the said bonds, and being much terrified with the apprehensions of a rigorous prosecution, he was so far imposed upon and intimidated as to deliver up to the said agents and servants of the said *C. T.* and *L. M.* all his said bonds, and to sign some release or discharge for the money due thereupon, upon their discharging him from the said sum of ——— due from him as aforesaid, and paying to him the further sum of ——— and no more, instead of ——— and upwards, then justly due to him from the said *T. C.* and *L. M.* upon the balance of his account, so that he was by the said force and threats compelled to accept of less than his just demands by the sum of ———; and your orators



exprefsly charge, that the faid force and threats were made ufe of in purfuance of direCTIONS by the faid *T. C.* and *L. M.* or one of them, or have been fince approved of and authorifed by them, and were for the benefit of the faid *T. C.* and *L. M.* they taking advantage of the faid unjust and extorted compenfation of the faid debt; and that the faid *T. C.* and *L. M.* or one of them, in order to induce the faid fervants and agents to proceed in that manner, did aCtually promife to allow to their faid fervants or agents, or fome of them, fome certain *premium* or reward by the hundred for all monies which they fhould fave to the faid *T. C.* and *L. M.* in ftating the accounts of the faid *C. S.* out of what monies were juftly due to him upon the faid accounts; and an account being drawn by the faid *J. H.* to fhew how much was faved to the faid *T. C.* and *L. M.* by the faid tranfactions with the faid *C. S.* the faid *T. C.* and *L. M.* or one of them, did afterwards aCtually pay or allow unto the faid *J. B.* and *J. H.* or fome other of their fervants or agents, the faid *premium* or reward for the faid fum of — being the fum appearing by the faid account fo drawn by the faid *J. H.* and by the books of their faid agents fince tranfmitted from thence, and now in the cuftody or power of the faid *T. C.* and *L. M.* or one of them, to be faved to them by the tranfactions aforefaid out of what was juftly due from them to the faid *C. S.* as aforefaid: And your orators further fhew, that the faid *C. S.* refiding in —, and being advanced in years and incapable of taking fo long a voyage as from thence to *Great Britain*, and having no way to commence any correpondence with any perfons here, or to appoint any perfons to complain to any court of juftice here of the faid fraud and oppreffion but by means of the fervants or agents of the faid *T. C.* and *L. M.* whom he was not able to prevail with to do him any fuch office; no fuit in law or equity was commenced againft the faid *T. C.* and *L. M.* upon account of the faid demands during the life-time of the faid *C. S.* who departed this life in — fome time in the year—. And your orators fhew, that your orator *C. C.* is his only fon and fole heir, and as fuch is, by the law of — (in which country he has always refided) well intituled to all the real and perfonal eftate, and alfo to all the rights and credits of him the faid *C. S.* without taking adminiftration, or any other ceremony; and your orator *J. R.* fince the deceafe of the faid *C. S.* hath obtained letters of adminiftration out of the prerogative court of the archbifhop of *Canterbury* of all and fingular the goods and chattels, rights and credits which were of the faid *C. S.* at the time of his deceafe, in truft for your orator *C. C.* he the faid *C. S.* having made no will or other difpofition of his effects, but having died intefstate, as by the faid letters of adminiftration

in the custody of your orator *J. R.* and ready to be produced to this honourable court, may appear : And your orators expressly charge, that no other administration hath been committed of the goods and chattels, rights or credits of the said *C. S.* And your orators farther shew, that on the — day of — in the said year — there being due from the said *T. C.* and *L. M.* to the said *C. S.* upon the balance of their accounts, the sum of — foreign money of — as aforesaid ; and there having accrued due to your orators from that time to the — day of — last, for interest for the same, the further sum of — after the rate of interest aforesaid, in all — being of the value of — of lawful money of *Great Britain*, your orators well hoped, that the said *T. C.* and *L. M.* would have re-delivered to your orators the said bonds so unjustly and unduly obtained from the said *C. S.* and would have paid to them the same ; and for that purpose your orator *J. R.* in his proper person, and your orator *C. C.* by your orator *J. R.* his attorney lawfully authorised, have in an amicable manner applied to the said *T. C.* and *L. M.* for that purpose : But now so it is, may it please your Lordship, that the said *T. C.* and *L. M.* combining and confederating themselves to and with the said *J. B.* and *J. H.* and to and with divers persons unknown to your orators, whose names, when discovered, your orators pray may be inserted herein, with apt words to charge them as parties, and contriving to defeat your orators of the effects of the said *C. S.* so fraudulently obtained from him as aforesaid, do absolutely refuse to come to any account with your orators touching the premises, most unjustly insisting, that the delivery of the said bonds by the said *C. S.* and the signing the said re-lease, is a legal bar to your orators' demands ; whereas your orators do expressly charge, that the said bonds and release were obtained from him the said *C.* by threats and cruel confinement, and great imposition, and therefore ought to be set aside in a court of equity ; it plainly appearing by the books of the said *T. C.* and *L. M.* that no manner of satisfaction whatsoever was ever made to the said *C. S.* for the sum of — or any part thereof : And at other times the said *T. C.* and *L. M.* pretend that they or either of them never were indebted to the said *C. S.* in any sum of money whatsoever ; whereas your orators do expressly charge, that the truth of the matters herein before set forth will appear as well from the books of the said *T. C.* and *L. M.* and the accounts and entries of their transactions kept by themselves and their servants, as by other good proofs thereof, which your orators are able and ready to lay before your Lordship ; and at other times the said *T. C.* and *L. M.* pretend that they are intitled to the benefit of the delivering up of the  
said

said bonds by the said *C. S.* in manner aforesaid, and that if he was imposed upon therein, your orators ought to seek their remedy against their servants and agents who were guilty of the said fraud and imposition: whereas your orators charge, that the said *T. C.* and *L. M.* having consented to such fraud and imposition, and received the benefit and advantage thereof, they ought to be looked upon as parties to the said fraud and imposition, and cannot be intitled to receive any benefit from the same; and the said *T. C.* and *L. M.* sometimes pretend, that the said bonds or any of them, from the tenor thereof, are not, nor ever were, a proper charge upon them the said *T. C.* and *L. M.* and that they are not obliged to pay the same or any part thereof; and that the said *C. S.* was imposed upon in the accepting of the said bonds by the said *J. G. S. C. E. B.* and *J. R.* who had not authority, as they the said defendants pretend, from the said *T. C.* and *L. M.* or either of them, to give such bonds, or to charge them the said *T. C.* and *L. M.* thereby, and that your orators ought to seek their remedy for the same against the said *J. G.*, *S. C.*, *E. B.* and *J. R.*; whereas your orators do expressly charge, and so the truth is, that the said bonds were given to the said *C. S.* for a just debt then due from the said *T. C.* and *L. M.* to him, the same being the balance of the account then stated as aforesaid between him and the said *T. C.* and *L. M.* and as a solid and sufficient security for the same; and in case they were not so, the giving the same was a gross fraud, practised by the said *T. C.* and *L. M.* by their said agents upon the said *C. S.* and the said debt ought to be still looked upon as subsisting in case the said bonds are not a good charge upon them the said *T. C.* and *L. M.* and were no just satisfaction or proper security for the said former debt; and your orators do humbly insist, that in case the said *C. S.* was imposed upon or defrauded in accepting of the said bonds, the said *T. C.* and *L. M.* ought to be looked upon as parties to such fraud and imposition, inasmuch as they from time to time gave credit to the said bonds, by crediting the account of the said *C. S.* with the principal money and interest thereby secured or mentioned so to be, and by payment of several considerable sums in part of the same, and by that means preventing his seeking any remedy against the said *J. G.*, *S. C.*, *E. B.* and *J. R.* touching the said demands, in case they were liable thereto; and your orators farther shew, that soon after the giving of the said bonds they the said *J. G.*, *S. C.*, *E. B.* and *J. R.* either continued to reside in ——— or otherwise withdrew themselves into other parts remote and unknown to your orators, and out of the dominions of his Majesty and the jurisdiction of this honourable court, so as they or any of them are not amenable to justice by



any proceſs of this honourable court; and your orators are not able to diſcover where they or any of them do now reſide; and your orators farther charge, that the then ſervants and agents of the ſaid *T. C.* and *L. M.* who were concerned in the ſaid fraud and impoſition, except the ſaid *J. H.* and *J. B.* are long ſince dead, or in places remote and unknown to your orators, and where they cannot be reached by the proceſs of this honourable court; and the ſaid *T. C.* and *L. M.* or the ſaid *J. B.* and *J. H.* or one of them, now have or very lately had in their or one of their cuſtody or power, or in the cuſtody or power of ſome or one of their ſervants, the ſaid bonds ſo taken from the ſaid *C. S.* and the books and accounts, by which it fully appears, that the ſaid ſum of ——— was never paid or ſatisfied, but was ſaved to the ſaid *T. C.* and *L. M.* as aforeſaid; the which bonds are the proper evidence of your orators' ſaid demands, and they detain them from your orators; and the ſaid *T. C.* and *L. M.* do reſuſe to diſcover unto your orators, whether or no the ſaid *J. G.*, *S. C.*, *E. B.* and *J. R.* or any of them, or any other of their agents or ſervants at ——— aforeſaid, had authority from them the ſaid *T. C.* and *L. M.* to ſtate the accounts of the ſaid *C. S.* or to give the ſaid bonds as aforeſaid, or by what inſtrument, appointment, powers or inſtructions they were ſo authoriſed, or whether or no the ſaid ſtating of the ſaid accounts, or the giving of the ſaid bonds, was ever agreed to or approved of by the ſaid *T. C.* and *L. M.* or either of them. All which actings and doings, and pretences of the ſaid *T. C.*, *L. M.*, *J. B.* and *J. H.* and the reſt of their confederates are contrary to all equity and good conſcience, and greatly tend to the defrauding and defeating of your orators of their ſaid juſt demands. **In tender conſideration** whereof, and forasmuch as your orators are without remedy in the premiſes at the common law, and are proper to be relieved before your Lordſhip in a court of equity, where frauds and impoſitions are ſet aſide, and evidences unduly detained are directed to be delivered up, and where mutual accounts are taken and balanced, and matters of this kind are properly cognizable: **To the end therefore** that the ſaid *T. C.* and *L. M.* *J. B.* and *J. H.* and their confederates, when diſcovered, may full, true and perfect answer make to all and every the matters and things herein contained, as particularly as if the ſame were here repeated and diſtinctly interrogated; and that not only as to their direct and poſitive knowledge and remembrance, but alſo as to the beſt of their information, judgment, and belief; and eſpecially that the ſaid *T. C.* and *L. M.* may answer and ſet forth whether or no your orator *C. C.* is not the ſon and ſole heir of the ſaid *C. S.* and whether by the laws of ——— or the laws in uſe in ——— or the county thereunto adjoining, your orator *C. C.* is not intituled

intituled to all the moveable and immoveable estate and effects of the said *C. S.* and to all his rights and credits; and whether the said *T. C.* and *L. M.* were not in or about the year \_\_\_\_\_ indebted unto the said *C. S.* in a very considerable, and in what particular sum of money, and whether an account was not about that time taken thereof in manner as is herein above set forth, or in any other manner, and how, and what was the result of that account, and what ballance was thereupon found due unto the said *C. S.* and whether or no the bonds above mentioned, or some, and which of them, or any other, and what bonds, were given by the said *T. C.* and *L. M.* or their said agents on their behalf, and on their account, to the said *C. S.* upon that or any other, and what account; and may set forth, whether or no, at the time that the said *C. S.* came on board the ship \_\_\_\_\_ at \_\_\_\_\_ bar, he was not entitled to the said four bonds of the said *T. C.* and *L. M.* or to some other, and what bonds of that nature; and whether it was not at that time, or is not now the custom or usage at \_\_\_\_\_ afore said, for the forbearance of money, at the end of every year to add the interest then due to the principal, which makes the forbearance of the payment of the money due to be after the rate of three fourths, by the hundred, by the month of thirty days, compound interest as afore said; and whether or no the said *T. C.* and *L. M.* or either and which of them, had not actually advanced several sums of money to the said *C. S.* in part of payment of the said four bonds; and whether the said *T. C.* and *L. M.* in their accounts with the said *C. S.* had not charged him with interest after the rate of three fourths by the hundred, by the month of thirty days compound interest for the money so advanced; and whether the said *T. C.* and *L. M.* had not advanced and delivered to the said *C. S.* several parcels of goods at certain prices in part of payment of the said bonds; and whether the said *T. C.* and *L. M.* in their accounts with the said *C. S.* did not charge him at the said rate of three fourths by the hundred, by the month of thirty days, compound interest for the value of the goods so delivered from the time of their delivery; and whether in the said month of \_\_\_\_\_ in the year \_\_\_\_\_ or \_\_\_\_\_ when the said *C. S.* was induced to go on board the said ship \_\_\_\_\_ at \_\_\_\_\_ bar as afore said, the principal and interest of the said bonds estimated at the rate of three fourths by the hundred, by the month of thirty days, compound interest as afore said, did not amount to the said sum of \_\_\_\_\_, or to what other sum the same did amount; and whether the several payments made in money and goods for the discharge of the said bonds, did at that time in the whole, with interest at the rate of three fourths by the hundred, by the month of thirty days, compound interest,

interest, commencing from the time of payment of each of the sums of money, or the delivery of each of the parcels of goods amount to more than ———, or to what other sum the same did amount in any account given in to the said C. S. and allowed by him; and if the said T. C. and L. M. pretend, that such sums of money, and the values of such goods amounted to more, that then they may set forth such accounts in the words and figures thereof; and that the said T. C. and L. M. and the other confederates, may set forth, whether there was not due to the said C. S. on the balance of this account in the said month of ——— at the latter end of the year ——— the sum of ———; and whether, notwithstanding there was so large a ballance due to the said C. S. the said T. C. and L. M. by their agents aforesaid, did oblige themselves to pay to the said C. S. more than ———, or what other sum they did oblige themselves to pay by the said pretended agreement made on board the said ship ———, and whether such pretended agreement, or the obligation executed by the said C. S. on board the said ship, whereby he became obliged to deliver up the aforesaid bonds, was extorted by force and violence, or was the result of any equal or impartial stating of accounts between the said T. C. and L. M. and the said C. S. whether they have not heard, or do not believe, that the said C. S. was of a sect of religion which strictly forbids the professors thereof to eat meat, drink any sort of drink, or to make use of any refreshment or ease of nature during the time they are upon the sea; and whether or no the said C. S. was not invited by the said J. B. and J. H. agents of the said T. C. and L. M. to come on board the ship ——— at ——— bar, ——— miles from the town of ——— and his place of abode, in order to settle his accounts; and whether the said C. S. was not at that time, and always, very ready to settle his accounts with the said T. C. and L. M. upon a fair balance of what was due to him from them for the said bonds, and of what they alledged he was indebted to them for money and goods advanced to him; and whether the agents of the said T. C. and L. M. or some or one of them, did not insist upon his defalking all or the greatest part of what was due on the said bonds, and whether the said C. S. did not refuse so to do; and whether the said agents of the said T. C. and L. M. or some or one of them, did not thereupon threaten the said C. S. that if he would not comply with the said demands made on the behalf of the said T. C. and L. M. he should be carried to ———, where he should settle his accounts: and whether the meaning thereof was not that he should settle his accounts in prison; and whether the said C. S. was not detained ———, or for some other, and what space of time, on board the said ship ———, at ——— bar, in the month of ———, in the latter end of the year ———

till



till he signed some writing obliging himself to deliver up the said four bonds, and to give a full discharge to the said *T. C.* and *L. M.* of all demands from them, and what space of time he remained on board the said ship; and whether he did eat any kind of meat, or drink any kind of drink, or use any ease or refreshment of nature, during the time he continued on board the said ship and whether or no they have not heard, or do not believe, that there was force, violence, or threats used, and particularly by threatening to take away his life, or otherwise, to the said *C. S.* on board the said ship ———, to terrify him into the signing an obligation, of giving a full discharge to the said *T. C.* and *L. M.* on their payment of ———, or upon any other, and what terms; and whether after the said *C. S.* had signed such obligation, and was permitted to go on shore, the said *J. H.* was not employed on the behalf of the said *T. C.* and *L. M.* to carry the said obligation, into execution; and whether upon his the said *J. H.* sending to the said *C. S.* in the month of ——— in the year ———, to come to him at ———, he the said *C. S.* did not immediately return for answer, that he was afraid to come to the said *J. H.* lest he should be treated by him as he had been on board the ship ———; and whether he did not explain the same to be, by putting him under confinement, and terrifying him by threatening to take away his life, as aforesaid; and whether the said *J. H.* did not acquaint the said *T. C.* and *L. M.* with this answer of the said *C. S.*; and whether upon assurances given to the said *C. S.* by the said *J. H.* that he should not have force offered, but should be treated in a friendly manner, he the said *C. S.* did not then come to him; and whether the said *C. S.* in the whole course of his treating with the said *J. H.* till the ———, were paid, and the discharge signed in pursuance of the said forced obligation, did not from time to time most grievously complain of the great injury done him by the agents of the said *T. C.* and *L. M.* in forcing him to relinquish so great a part of his just debt; and whether the four bonds abovementioned were not delivered up to the said *J. H.* and a general discharge of all demands upon the said *T. C.* and *L. M.* executed by the said *C. S.* in or about the month of ———; and whether the said bonds were not given up, and the discharge to the said *T. C.* and *L. M.* executed in pursuance of the forced obligation aforesaid, signed on board the said ship ———, at ——— bar; and whether the said *J. H.* or some other of the agents of the said *T. C.* and *L. M.* did not make up the account of the said *C. S.* with the said *T. C.* and *L. M.* to the time of the delivering up of the said bonds; and whether in the said account there was not ——— allowed, or appearing to be due to the said *C. S.* for principal and interest on the said bonds; and whether in the said account the said *C. S.* was made debtor

debtor to the said *T. C.* and *L. M.* for more than —, or for what other sum, for principal and interest of money or goods advanced by them to the said *C. S.* or any other account whatsoever; and whether by the said *T. C.* and *L. M.*'s accounts with the said *C. S.* he was made debtor to them in the month of —, for more than —, or for what other sum; and whether upon the delivering up of the said bonds, and signing the said discharge by the said *C. S.* he the said *J. H.* or any other person on the part of the said *T. C.* and *L. M.* paid to the said *C. S.* more than —, together with — as interest of —, that should have been paid in ready money the — before; and whether there was not —, or some other, and what sum of money, paid short to the said *C. S.* of what was due on the said bonds; and whether the said article of — was brought to account in the said *T. C.* and *L. M.*'s accounts with the said *C. S.* and in what manner the said article was entered, and whether the same was or is entered as so much saved to them, or in what other manner the same was or is entered, to balance the said — due to the said *C. S.* as aforesaid; and whether the said agents of the said *T. C.* and *L. M.* who went to — bar as aforesaid, and the said defendants *J. B.* and *J. H.* or some, or one, and which of them, have not often made great merit of saving to the said *T. C.* and *L. M.* so much money by the adjustment with the said *C. S.* as aforesaid; and whether the said *T. C.* and *L. M.* or either, and which of them, have not been applied to by their said agents, or some, or one of them, for some recompence for such great service: And whether the said *T. C.* and *L. M.* have not diaries, books of accounts, and books of consultations at — sent every year to them into *England*; and that the said *T. C.* and *L. M.* before they put in their answer to this your orators' bill, may cause diligent search to be made in the said diaries, books of accounts, and books of consultations, and the several other accounts and minutes hereby inquired after; and that they may set forth a true copy of the diary or consultation held on board the ship — on the — of —, at which were present the said *J. B.* and *J. H.* and that the said *J. B.* and *J. H.* may severally and respectively set forth what they know, remember, or have been informed concerning the transactions with the said *C. S.* touching his said bonds and accounts with the said *T. C.* and *L. M.* on board the said ship —, or at any time afterwards; and that the said *T. C.* and *L. M.* and the said *J. H.* may set forth a true copy of the said account drawn by the said *J. H.* as aforesaid, shewing how much was saved to the said *T. C.* and *L. M.* by the said transactions with the said *C. S.* and that the said *J. H.* and *J. B.* may severally answer and set forth,  
if

if any, and what premium or allowance was given or made to the said servants or agents by the said *T. C.* and *L. M.* for or in respect of the money saved to them by their said transactions with the said *C. S.* or whether the said *T. C.* and *L. M.* or either or which of them, did not promise to make or give them some and what allowance or premium thereupon, and whether the said *J. B.* and *J. H.* have not made several, and what applications, to the said *T. C.* and *L. M.* either and which of them, for some, and what premium or allowance thereupon, and what was the result and consequence of such applications, according to the best of their knowledge, remembrance or belief; and that the said defendants, and every of them, may set forth what is now become of the same bonds, and of every of them, and where, in whose hands, custody, knowledge, or power, the same bonds, or any of them, now are, or at any time since the delivering up of the same, and when last, were, or have been, and whether the said bonds, or some of them, and to what amount, have not since the delivering up thereof been in the custody of the said *T. C.* and *L. M.* or of the said other defendants, or one of them; and whether the said *C. S.* be now living or dead, and if he be dead, when he died, and in what country, to the best of their knowledge, information, and belief; and whether he or your orator *C. C.* were ever in *Great Britain*, as they know or believe; and that the said release so unjustly obtained from the said *C. S.* may be set aside and delivered up to your orators to be cancelled; and that the said bonds may be delivered up intire and uncanceled to your orators, and that the said *T. C.* and *L. M.* may come to a fair account with your orators, touching all monies due to the said *C. S.* in his life-time, or to your orators, or either of them, in his right, since his death, for principal and interest upon the said bonds, and all just demands and accounts depending between the said *T. C.* and *L. M.* and him the said *C. S.* in his life-time, and may pay to your orators what shall appear to be due upon the balance of such accounts; and that your orators may have such farther and other relief touching the premises, as shall be agreeable to equity, and as your Lordship shall think fit. May it please,  
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*A Bill for Tithes.**To the Right Honourable, &c.*

**H**UMBL Y complaining, sheweth unto your Lordship your orator *J. P. of P.* in the county of *C.* that your orator now is, and for six years last past hath been seised in fee, and proprietor and owner of all and every the tithes of corn and grain, and other great and predial tithes whatsoever arising, renewing, increasing, and growing within the townships, hamlets, and vills of *W.* and *A.* and the titheable places thereof, in the parish of *B.* and parcel of the impropriate rectory thereof in the said county of *C.* *and particularly of the tithes of corn and grain and other great and predial tithes arising, renewing, increasing, and growing in, upon, and within the tenement called B. in A. and W. aforesaid, or one of them, and by reason thereof during all the time aforesaid was and now is justly, rightfully, and lawfully intitled unto and ought to have enjoyed, had, and received, and ought to have, enjoy, and receive, all and every the tithes of corn, grain, and other great and predial tithes arising, renewing, increasing, or growing, or which, during the said time, have arisen, renewed, increased, or grown within the said township, hamlets, and vills of W. and A. and either of them, and particularly in, upon, and within the said tenement called B. and also all and every the sums, matters, and things whatsoever, which during the said time, of right, or by any custom within the said township, hamlets, or vills, have been payable as for or on account of tithe, corn, grain, or other great and predial tithes, or which ought to have been so payed or answered.* And your orator further sheweth to your Lordship that *M. B.* widow, and *B.* her son, jointly and severally, for and during the said space of six years last past, had held, or occupied and enjoyed, the said tenement called *B.* within *A.* and *W.* aforesaid, or one of them, or the lands and grounds thereunto belonging, and other lands and grounds within *A.* and *W.* aforesaid or one of them, or the titheable places thereof in and upon the same, and within the said townships, hamlets, and vills, or one of them, and the titheable places thereof, and had jointly and severally growing, renewing, increasing, and thence reaped, and had, and took in the said years respectively several quantities of corn and grain, to wit, in each of the said years 100 shocks or hattocks of wheat, the tithe whereof in each year, if duly paid, would have been worth 20 s. One hundred shocks or hattocks of rye, the tithe whereof was worth in each year other 20 s. Three hundred hattocks or shocks of

oats, the tithe whereof would have been worth in each of the said years, if paid, 30 s. One hundred and fifty shocks or hattocks of barley, the tithe whereof, if the same had been duly answered, would have been worth 30 s. One hundred shocks or heaps of beans, the tithe whereof was worth 15 s. One hundred shocks or heaps of pease, the tithe whereof was worth other 15 s. Two hundred shocks or hattocks of bigg, the tithe whereof was worth 30 s. and upwards. All which said several tithes became due and payable from the said *M. B.* and *B.* her son, jointly or severally, in each of the said years, and ought to have been justly and duly paid and answered unto your orator as proprietor and owner of the said tithes and premises. *But so* it is, may it please your Lordship, that the said *M. B.* and *B.* having entered into a combination and confederacy between themselves, and with several other persons unknown to your orator, who when they shall be discovered, your orator prays they may be made parties hereto, with apt words to charge them, have, and either of them, hath neglected, omitted, and refused to set out, pay, satisfy, or answer, and have not, nor hath either of them in any of the said years, set out, paid, satisfied, or answered unto your said orator the said several and respective tithes, or any of them, or made any agreement, composition, or just satisfaction to your said orator for the same, or any thing in lieu thereof, but though in a friendly manner requested thereto, have and hath jointly and severally refused to set out the same, or to pay or answer what is justly due to your orator on those accounts, or fairly or justly to set forth, yield, or pay their and either of their said tithe, or to pay and make him any just satisfaction for the same, or for any the tithes subtracted and with-held by them, or either of them; but as they have concealed, so they do, and each of them doth endeavour to conceal the said titheable matters, and refuse to discover what lands, tenements, and hereditaments in particular they jointly and severally held, occupied, ploughed, and reaped within the said township, hamlets, and villages in each of the said years, nor what tithes of corn and grain they in each of the said years, or either of them respectively with-held and detained from your orator, nor what is and was the value thereof; and as their reason for so doing, the said confederates sometimes insist, that they have duly paid and answered to your orator the tithes of all and singular the titheable matters, and at other times that they are not nor were liable to the payment of any tithe in kind, but exempt and free from the payment thereof *under an ancient modus or composition of 10 s. yearly, or other the like sum payable time immemorial, in lieu of tithes of corn and grain, and other great and predial tithes arising, renewing, increasing, and growing upon and within the said tene-*

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ment and lands held, enjoyed, sown, and reaped by them in the said several years aforesaid; which *modus* they pretend was paid by them in and for the said several years unto your orator; whereas your orator charges, as the truth is, that the said confederates, or either of them, did not set forth, pay, or answer the tithes due to your orator for the corn and grain reaped, had, and taken by them, which grew upon the said tenement, lands, and premises, or any of them, in or for any of the said years herein before mentioned, nor have they, or either of them, paid or answered any *modus*, pretended *modus*, or composition to your orator for the same, for any of the said years; and the truth is, as your orator charges it to be, that tithes of corn and grain, and other great and predial tithes arising from the premises, are due and payable, and ought to be answered and paid unto your orator in kind; and the said confederates are not nor ought to be exempt from the payment thereof, upon any pretence of a *modus* payable in money, as in lieu thereof, which however was never paid to your orator; and if there was any colour to set up such pretences to a *modus*, yet that is owing to a late agreement, whilst the tithes, as also the said tenement and lands were in the hands of the family of the M.'s and not any prescriptive *modus*, nor was the said tenement anciently discharged from payment of tithes in kind, upon or under payment of any *modus* or sum in lieu of tithes; but tithes in kind were paid and answered as for other the lands or tenements within the said township, till the said tenement and tithes both came into the hands, ownership, or possession of M. of H. in the said county, who settled and conveyed the said tithes upon or unto one of his younger sons, from whom the same descended and came to R. M. Esq. his kinsman, of whom your orator purchased the same; and the said tenement called B. continuing in the ownership of some other of the M.'s, near relations to the then proprietors of the said tithes, they on account of kindred or other motives complied to accept 10 s. per annum, or other such sum in money for the tithes arising from the said tenement, which being a temporary agreement only, and not any *modus* that had been paid time immemorial, your orator humbly apprehends himself not to be bound or obliged thereby, nor ought the said confederates, nor either of them, who, or one of them, purchased the said tenement, or claim under some purchaser thereof, or have or hath possessed the same during the time aforesaid, to have or claim any discharge or exemption from payment of tithes in kind, as upon or under any such pretences, they, or one of them, well knowing or having been informed, or from the papers, books, notes, and memorandums in their keeping or power, may be well satisfied that there was anciently no such *modus* paid or received in discharge of tithes arising from the said tenement; but that which was paid and received as on account thereof was modern and under late agreement and compliance whilst the said tenements and tithes were both in the hands of the family of the



*the M.'s; and the said confederates ought of right and justice to have answered and paid unto your orator their said several tithes for the said titheable matters arising and growing in and upon the said tenement, and within the said township, vills, and hamlets as aforesaid; yet the said confederates, and each of them, under some and the like frivolous and unjust pretences as aforesaid, have refused, and do refuse to pay or answer the said tithes or any of them to your said orator, or to make him any just satisfaction for the same, or to make him any full and fair discovery of the titheable matters they severally had within the said townships, hamlets, and vills, and titheable places thereof, in the said several years, or any of them, though they have been severally requested thereto. All which actings, doings, pretences, and designs of the said confederates are contrary to equity and good conscience, and tend to your orator's great wrong and injury: In tender consideration whereof, and for that your orator cannot exactly prove the several natures, kinds, and quantities of the said titheable matters, nor what the said tithes due from them and each of them unto your orator did or might in each of the said years amount unto, but the same being industriously concealed by the said confederates, remain principally in their knowledge; from whence, and the evidence your orator may give, he your said orator well hopes he shall be enabled to make out his charge against the said confederates, whereupon to be relieved and to obtain satisfaction for the single value of the said tithes subtracted and withheld as aforesaid, and to have such other relief and satisfaction as may appear just: To that end therefore,, and in order thereto, that the said confederates may, upon their several corporal oaths, true, perfect, and distinct answer make to all and singular the premises, and more especially that they and either of them may discover and set forth what particular lands, tenements, grounds, and hereditaments they jointly and severally had during the said six years, or any and what part thereof held, occupied, or enjoyed within the said township, hamlets, and vills, and each of them, and set forth what parts thereof were in each of the said years sown with corn and grain, and the pieces, kinds, and values thereof in each year distinctly, and what corn they jointly and severally reaped, had, cut, or took within the said township, hamlets, and vills, and in what years distinctly of the said six years, and what was and were the full value of the tithe thereof in each of the said years distinctly, if the same had been paid in kind; and whether your orator, or some, and who, on his behalf, did not, at some, and what time and times, apply to them, or one and which of them, to set out or answer their, or one, and which of their said tithes, and shew cause, if they can, why they refused so to do; and whether they have not severally neglected*

neglected or refused to pay or answer the same, or to give any satisfaction or make any composition or recompense to your orator for or in lieu of the tithes, and what were the several tithes of corn and grain grown, reaped, and had by them, and either of them, within the said township, hamlets, and vills, worth, if the same had been justly paid and answered in each of the said six years; and if they, or either of them, shall set up or pretend to any *modus* or composition, as for or in lieu of the said tithes, or any of them, that they may shew whether they have paid or tendered the same in any and what years, and when, where, and to whom, and for what years the same is in arrear and unpaid, and what such *modus* is in particular, and to what lands, tenements, and grounds the same extends, and which is covered or pretended to be covered thereby, and which not, and when such *modus* or composition commenced, and by and under what agreement, and when and with whom made, and whether, as they severally have heard and believe, the tithes of corn and grain growing and arising from the said tenement, lands, and premises, or some, and which of them, were not paid, and what in kind; and whether the 10s. or other sum pretended to be paid or payable as a *modus* or composition for or in lieu of great tithes, arising from the said tenement and premises, was not by or under some, and what agreement or compliance whilst the said tithes and tenement were in the hands of some of the family of the M.'s; and whether the same was made perpetual or only temporary, and during what time such *modus* or composition was paid and accepted, and by whom and when; and that they may make diligent search amongst all the books, papers, notes, and memorandums in their or or either of their custody or power, and set forth what they know, have heard, or can find relating to the said pretended *modus* or payment of tithes in the very words and figures, and shew cause, if they can, why they have severally refused or neglected to set forth, and pay, and answer their and either of their tithes to your orator, or to make him any recompense, compensation, or satisfaction for the same, or for the value, or in lieu thereof; and that the said confederates may, upon a full and just discovery of the premises, be decreed and obliged to pay, satisfy, and answer unto your orator all and every the tithes subtracted by them and either of them, or the just value thereof, as in every of the said years became justly due and payable from them and either of them respectively unto your said orator, not desiring to take advantage of the forfeiture of the treble value, but well contenting himself with the single value of the said tithes subtracted, withheld, and not paid; and if any *modus* shall be set up and supported, that they may shew in particular to what lands and grounds the same extends, and why they have not paid and answered the same, and may be decreed to make payment thereof and of the arrears;

rears; and that your orator may, upon a full and fair discovery of all and every the matters and things aforesaid, and of the circumstances and particulars relating thereto, upon the oath of the said confederates, be otherwise relieved in all and singular the premises, according to equity and good conscience. May it please your Lordship to grant unto your orator his Majesty's most gracious writ of *subpœna* to be directed to the said *M. B.* and *B.* her son, thereby commanding them, &c.

*Another Form, in the Exchequer.*

*To the Right Honourable, &c.*

**H**UMBL Y complaining, sheweth unto your Honours, your orator *A. B.* rector of the rectory and parish church of —, in the county of —, debtor and accountant to his Majesty, as by records of this honourable court and otherwise it doth and may appear, That your orator was in the year 1772 lawfully presented, instituted, and inducted into the said rectory and parish church of —, and he is now, and ever since has been, the lawful rector thereof, and by virtue thereof your orator became, and is now, intitled to all tithes both great and small, arising, growing, renewing, and increasing within the said rectory and parish church, and the titheable places thereof, or to a satisfaction for a full value thereof: And your orator further sheweth, that *C. D.* of —, in the county of —, farmer, hath, during the years 1779, 1780, and 1781, held and occupied a farm, with the lands and premises thereto belonging, consisting of many acres of lands, situate and being within the said rectory and parish of —, and the titheable places thereof; and your orator further sheweth, that in each of the said years 1779, 1780, and 1781, the said *C. D.* had and took upon and from his said farm and lands in the said parish of —, great quantities of wheat, barley, oats, pease, and beans, and other corn and grain, which in each of the said years was cut and carried away without rendering and paying to your orator the tithes thereof, or making him a satisfaction for the same; and he in each of the said years kept upon his said farm several ewes which yeaned and brought forth great numbers of lambs, the tithes of which in each of the said years ought to have been set out in kind, and he has had from his said sheep upon his said farm great quantities of wool, and he has had and kept in each of the said years a great number of milch cows which produced great quantities of milk, and had several calves, and he has cut great quantities of hay and hay-grass off his said lands, to the



tenth whereof your orator also became intitled in kind ; and the said *C. D.* in each of the said years had kept and depastured or agisted for hire or otherwise upon his said lands in the said years, in the said parish, a great number of barren cows, horses, bullocks, sheep, and other unprofitable cattle, and from which your orator received no benefit or advantage ; and your orator became intitled to, and ought to have been paid in each of the said years the tithe agistment of all such cattle and horses, which was of considerable value ; and the said *C. D.* had on his said farm in each of the said years, several colts, pigs, geese, ducks, and turkeys, and great quantities of eggs, and for which he did not in each of the said years pay any tithes to your orator, and which he ought to have done ; and he had in the said parish in the said years, or some of them, great quantities of clover feed, rye-grass feed, cabbages, potatoes, and other garden stuff, and fruits of different kind, and honey, and other small tithes, the tithe thereof ought to have been paid to your orator in kind in the said years ; but the said *C. D.* did not in the said years fairly set out, pay, render and satisfy the tithes of the said manors aforesaid in kind, or any of them, to your orator, but took the several manors aforesaid to his own use, without making any satisfaction to your orator for the tithe thereof, or any of them : And that your orator further sheweth, that there is a large sum of money due to your orator from the said *C. D.* for the tithes aforesaid, and your orator has several times applied to the said *C. D.* and requested him to discover to your orator the particular numbers and quantities of the several titheable manors and things aforesaid, had by him in the said parish in the said years, and the value of the tithes thereof, and to account with your orator and make him satisfaction for the same : and your orator well hoped he would have complied with such his reasonable request, as in justice and equity he ought to have done : **But now so it is,** may it please your Honours, that the said *C. D.* combining and confederating to and with divers other persons at present unknown to your orator, whose names, when discovered, he prays may be herein inserted, and they made parties hereto, with proper charges against them as defendants hereto, contriving how to injure and oppress your orator in the premises, he the said defendant *C. D.* refuses to comply with your orator's said request, sometimes pretending that your orator was not, nor is the rector of the said parish of —, but which at other times he will admit, but then he pretends that he has not within the said years aforesaid, or either of them, occupied any lands within the said rectory and parish of — and the titheable places thereof, or that he has not had any of the titheable manors and things in the years aforesaid, or any of them, upon his lands within the said parish ; whereas your orator charges the contrary to be true, and

so the said defendant will at other times admit, but then he pretends that he has fully and fairly set out for, paid, and satisfied your orator for the tithes of all the titheable manors and things aforesaid, which arose from and upon his said lands in each of the said years, and that no money is due to your orator on account of the tithes, or any of them; whereas your orator charges the contrary to be true, and that the said defendant had in the said years aforesaid, in the said parish, the several titheable manors and things aforesaid, and that he did not fully and fairly set out and pay, and satisfy to your orator the tithes thereof, or any of them, but that the same are now due to your orator from the said defendant, and ought to be accounted for and paid to him; but at other times the said defendant pretends, that no tithes in kind for any of the titheable manors and things arising, growing, renewing, or increasing on or from any of the lands so occupied by him as aforesaid is due to your orator, but that the same are exempt from the payment of the said tithes in some manner; whereas your orator charges, that the tithes in kind of the several manors aforesaid, and so had by the said defendant, are due and ought to be paid to your orator by the said defendant, and that there is a large sum of money due to your orator for, or on account thereof, and the said defendant absolutely refuses to pay the same to your orator. **All which sayings and doings** of the said defendant are contrary to equity and good conscience, and tend to the wrong and injury of your orator in the premises: **In consideration whereof**, and forasmuch as your orator cannot be fully relieved in the premises, but in a court of equity, where manors of this nature are properly cognizable and relievable, **To the end therefore** that the said defendant and his confederates, when discovered, may upon their several and respective corporal oaths, full, true, and perfect answer make to all and singular the manors aforesaid, as fully and particularly as if the same were here again repeated, and they interrogated thereto, and more especially whether your orator is not now, and hath ever since been from the time aforesaid, or what other time the rector of the rectory and parish church of — — or how otherwise, and whether he was not instituted and inducted thereto as aforesaid, and whether he is not intitled to the tithes in kind, both great and small, arising growing, renewing, and increasing within the said parish and the titheable places thereof, or to any and what satisfaction for the same; and if not, why not, and whether the said defendant hath not during the years aforesaid, and each, or any, or either, and which of them, or during any, and what part thereof, held and occupied some and what farm, consisting of what number of acres of land within the said rectory and parish of — —, or any and what part thereof, and that he may set forth what number

of acres of land held by him in the said parish in the said years, and what part of the said parish the same are situate in, and the yearly value thereof, and whether he had not in each of the said years aforesaid in the said parish, and upon his lands, or in which of them in particular, or in some and what part thereof, some and what particular quantity of wheat, barley, oats, pease and beans, and other and what grain, and of what value in each year, and whether he did not cut and carry away the same, and whether he paid and satisfied the tithes thereof, and of each of them, in each or which of the said years, and if not, why not, and whether any thing, and what is not now due and owing to your orator in respect thereof, and whether the said defendant hath not upon his said lands, in the said parish, in the said years, or which of them, some, and what particular number of ewes, and whether they did not in each, or which of the said years, year and bring forth some and what particular number of lambs, and whether he did not in any and which of the said years have any and what particular quantities of wool, and any and what number of colts, calves, and pigs, and whether the tithes in kind of the several manors aforesaid, or which of them ought not to have been set out for or paid to your orator, and whether the same, or any and which of them were or was really and fairly set out for or paid, or rendered to your orator in the said years, and which of them, and whether your orator did ever and when receive any and what satisfaction for the same, or any of them, and whether the tithes of any and which of them were not in some manner subtracted by the said defendant, and whether there is not now any thing, and what due to your orator on account thereof, and whether the said defendant did not in each of the said years, or either and which of them, keep upon his lands in the said parish, any and what particular number of milch cows, and whether they did not in each of the said years, or which of them give any and what particular quantities of milk, and whether the tenth, or any and what part of the said milk did not in each and which of the said years become due to your orator for the tithe thereof, and whether the said tenth part of the said milk was fully and fairly in each of the said years set out and paid for to your orator, and whether the same, or any, and what part thereof was not subtracted by the said defendant, or how and when and in what manner was the tithe of the said milk in each of the said years set out, paid, or satisfied to your orator, and whether there is not now any thing, and what due to your orator on account thereof, and whether the said defendant had not in each of the said years, or any and which of them upon his lands and grounds in the said parish, divers and what quantities of hay and hay-grass, and whether the tithes thereof are duly answered and paid unto your orator, and whether the same would not have been



been worth any and what sum of money, and whether the same was fairly set out and rendered and paid to your orator in each of the said years, and whether the said defendant did not in each of the said years, or which of them, keep, feed, and depasture or agist for hire upon his said lands in the said parish in each of the said years, or which of them, any, and what particular number of barren cows, horses, sheep, bullocks, heifers, or any and what other unprofitable cattle, and whether the tithes of agistment thereof in each of the said years, or which of them did not become due to your orator, and whether the same was in any and what manner in particular paid or satisfied to your orator, or whether any thing, and what in particular is not now due and owing to your orator on account thereof, and what was the value thereof in each of the said years, and whether the said defendant had not in the said parish in each of the said years, or either and which of them, any, and what particular number of geese, ducks, and turkies, and what quantities of eggs in particular, and any and what quantities of clover seed, rye-grass seed, or other and what seed, and whether the tithes thereof, or either and which of them were ever, and when, and how, and by whom fairly and fully paid or satisfied to your orator, and whether the said defendant had not off and from his said farm, garden, orchard, and lands in each of the said years, or which of them in the said parish, any and what quantities in particular of potatoes, cabbages, carrots, onions, garden-stuff, apples, pears, and other fruit and honey, and what other small tithes in particular, and whether the tithe thereof, or of any and which of them has been, ever, and when, and how, and by whom fully and fairly paid to your orator, and whether any thing, and what is not now due and owing to your orator on account thereof, and whether the full and fair tithes thereof of all the several manors and things aforesaid, or of some and which of them have in each of the said years been really paid and satisfied by the said defendant to your orator, or whether the same, or which of them, in any and what satisfaction on account thereof is or are not now due and owing to your orator, and what is the value of all the tithes so due to your orator in each of the said years, and how the said defendant computes the same; and whether your orator has not made such applications to the said defendant for such purposes as aforesaid, or some of them, or some other, and what application for any other, and what purposes, and whether he has not refused to comply therewith, and if so why so; and that the said defendant may be decreed to come to a fair account with your orator for the several tithes aforesaid due and payable from time to time to your orator in each of the said years aforesaid; and that he may be decreed to pay to your orator what shall appear to be due to him upon such account (your orator

hereby waiving all penalties and forfeitures incurred by the said defendant for substracting and not setting out the said tithes, and contenting himself with the single value thereof); and that your orator may have such further and other relief in the premises as the nature of the case may require, and as shall be agreeable to equity and good conscience. May it please, &c.

*A Bill to carry Articles of Agreement into execution, by a Bargainor against a Bargainee, and for a specific Performance thereof.*

*To the Right Honourable, &c.*

**H** U M B L Y complaining, sheweth unto your Lordship, your oratrix *E. G. of B.* in the county of *C.* widow, that your oratrix being seised in fee of and in a freehold messuage and tenement with the appurtenances, situate, lying, and being in *B.* aforesaid, which she and *J. T.* her late father deceased, in or about the year of our Lord ———, conveyed by way of mortgage unto *J. L.* late of *L.* in the said county of *C.* yeoman, since deceased, and his heirs for securing the re-payment of the sum of ——— with interest after the rate of ten-pence in the pound or thereabouts; and your oratrix being also seised in fee, or otherwise well intituled, to her and her heirs, according to the custom of the manor of *W.* in or to a customary or tenant-right messuage or croft called *P.* messuage, with the garth and front to the same adjoining, and part of another garth or curtilage lying at the West end of the before mentioned freehold messuage, and also of divers parcels of customary or tenant-right lands herein after mentioned, parcel of the said manor of *W.* and situate, lying, and being within the township or town fields of *B.* aforesaid, namely two butts of arable land on the East side of the gards; four riggs of arable land called the croft, containing by estimation two acres or thereabouts; three several parcels of arable and meadow ground situate, lying, and being in a place called the ——— and containing together by estimation half an acre, or thereabout, and all of them abutting on the lord's waste towards the North; one other parcel of ground called ———, containing by estimation one rood or thereabouts; one parcel of ground called the ——— land, containing by estimation one rood or thereabouts; and one parcel of ground called *B.* containing by estimation half an acre or thereabouts; and your oratrix being so seised and intituled to the said freehold and customary messuages, lands, and premises, and being desirous to make sale thereof in order to raise monies wherewithal to discharge the aforesaid mortgage, she did therefore give public notice for the sale of the

the same by public cant or auction, to the best bidder, to be on the — day of — last; at which time the said messuages, lands, and premises were put up to sale accordingly; and *T. P. of E.* in the parish of *B.* in the county of *C.* yeoman, and divers other persons, offered themselves as purchasers, and bid monies for the said premises; and the said *T. P.* having at last offered and bid the sum of —, a bargain was struck with him as being the highest bidder for the same; and thereupon your oratrix and the said *T. P.* (who had been informed and very well understood that the said freehold messuage and tenement stood incumbered with the aforesaid mortgage) entered into and mutually signed articles of agreement between them, bearing date the — day of — in the year of our Lord —, and made or mentioned to be made between your oratrix of the one part, and the said *T. P.* of the other part, whereby your oratrix, for and in consideration of the sum of — of lawful *British* money, to be paid as in the said articles is mentioned, covenanted and agreed with the said *T. P.* that your oratrix would, on or before the — day of — then next ensuing (at the proper costs and charges of the said *T. P.* and by such conveyances, ways, and means in the law as his counsel should advise) grant, convey, and assure unto the said *T. P.* his heirs and assigns, all that her said two messuages and freehold lands (one acre called *W.* croft side and East garth, and half an acre called *T. rigg*, and also the half rigg and *G. butts*, being parcels of the said freehold tenement, only excepted and foreprized), together with the beforementioned parcels of customary or tenant-right lands, containing by estimation three acres and a half, or thereabouts, free from incumbrances; and it was in and by the said articles of agreement, covenanted and agreed, that your oratrix should have and hold for her life the mansion-house wherein she then lived, together with the buyer at the end, and a little barn at the North end of the old house; and that the said *T. P.* should pay to the lord of the said manor the yearly apportioned rent of 4 *s.* for the said customary premises agreed to be conveyed to him as aforesaid, together with four-pence yearly in lieu of boon days; as also four-pence yearly as for his proportion of the prescription money, payable out of the said customary tenement, for and in lieu of the tithes thereof; and that your oratrix should have a proportionable share of the mosses belonging to the aforesaid messuages, as also of the mire in the place called the *W.*; and the said *T. P.* did, in and by the said articles of agreement, for himself, his heirs and assigns, covenant and grant to and with your oratrix, her heirs and assigns, that he the said *T. P.* should and would pay unto your oratrix, or her assigns, the sum of —, part of the said consideration money, upon the executing



cuting such conveyances of the premises as aforesaid ; and the further sum of ——— on or before ——— day of ——— next following ; and the further sum of ——— residue of the said consideration money, on or before the ——— day of, ———, as and for the purchase money of the said messuages and premises above mentioned, as by the said articles of agreement under the hands of your oratrix and the said *T. P.* ready to be produced to this honourable court (relation being thereunto had) it doth and may more fully and at large appear ; and your oratrix further sheweth unto your Lordship, that *J. L.* of *L.* aforesaid yeoman, executor of the said *J. L.* the mortgagee, being made acquainted with the contract made between your oratrix and the said *T. P.* for the purchase of the said premises, did promise and agree to accept of the monies due upon the said mortgage, amounting then to the sum of ——— or thereabouts ; and upon payment thereof, to join with your oratrix in such conveyance or conveyances of the said freehold premises, as he and the said *T. P.* or his counsel learned in the law should reasonably devise, advise or require. And your oratrix hath frequently and in an amicable manner applied to the said *T. P.* to know by what conveyance, ways and means in the law he would have the said purchased messuages, lands and premises granted and conveyed to him, your oratrix at the same time offering and proposing to the said *T. P.* that she and all others having and claiming any estate, right, title, or interest of, into, or out of the said premises, should join in making and executing any such grant and conveyances thereof free of all incumbrances, as he the said *T. P.* should require, or his counsel should devise or advise in that behalf, according to the true intent and meaning of the articles of agreement so made as aforesaid ; and the said *T. P.* for some time seemed inclinable to come into measures, as if he would proceed in the purchase of the said premises ; and in prosecution thereof actually contracted and agreed with your oratrix to permit her to occupy and hold the possession of one acre in *L.* one acre called ———, half an acre called *G.* one rood in *S.* land, half an acre in *N.* lands, three days work of meadows in *B.* fields, two roomsteads in the barn, and a parcel of ground lying behind the said barn in a place called the *W.* gards or garth, being parcel of the said freehold premises ; and also two acres called *C.* with the gards and front, being parcel of the said customary premises, and one rood of freehold lying in it ; half an acre called *N.* and one rood in *S.* being other parcel of the said customary premises purchased as aforesaid for one year, to be computed from ——— last past, at or under the yearly rent of ———. And though your oratrix having proposed and offered to the said *T. P.* to do and perform, and to cause and procure to be done and performed, every thing that was requisite and reasonable (and

(and on her part to be performed) in order to grant, convey and assure to the said *T. P.* his heirs and assigns, the said purchased messuages, lands and premises according to the tenor and intent of the said articles of agreement, had good reason to expect that the said *T. P.* would have signified to your oratrix how or in what manner he would have the same conveyed to him, so as your oratrix might have had the effect of the said agreement answered and performed, and the consideration money stipulated to be paid as aforesaid, paid and secured to her at the days and times in the said articles of agreement mentioned in that behalf as in justice she ought: *Yet now so it is*, may it please your Lordship, that the said *T. P.* having entered into a combination and confederacy to and with the said *J. L.* and *J. L.* of the town and county of *N.* merchant, eldest brother and heir of the said *J. L.* deceased, and to and with divers other persons as yet unknown to your oratrix, (whose names when discovered your oratrix prays may be inserted herein, with apt and proper words to charge them and every of them as defendants) to defraud your oratrix of the premises; and they having thereupon formed a design to disappoint her of the said purchase monies, and to defeat her of the benefit of the said articles of agreement so made and entered into as aforesaid, he the said *T. P.* for that purpose has refused, and persists in his refusal, either to signify to your oratrix what manner of conveyance he requires, or his counsel advises, to be made to him of the said messuages, lands and premises, or yet to accept of any conveyance whatsoever thereof, or to pay or secure to your oratrix any part of the monies agreed by him to be paid for the purchase of the said premises; and to give some countenance to the unjust pretences and refusals of the said *T. P.* they the said *J. L.* and *J. L.* do pretend and give out, that the legal estate of and in the said premises being in the said *J. L.* by virtue of the mortgage aforesaid to the said *J. L.* their brother, they the said *J. L.* and *J. L.* are not, nor is either of them, under any obligation to execute or to join with your oratrix in any conveyance thereof, or to do any act towards the performance and execution of the said articles of agreement; whereas your oratrix charges, (and so the truth is) that they the said *J. L.* and *J. L.* have not, nor hath either of them, any other estate, right, title, or interest, of, in, to, or out of the said messuages, lands and premises, or any part thereof, save only by way of mortgage for the securing only the sum of — or thereabouts, which your oratrix proposes may be satisfied and answered from and out of the first payment of the purchase money in the said articles of agreement mentioned, and which your oratrix hath offered, and is ready to pay, or appoint to be paid to them, or such of them as shall be intitled thereto, upon their reconveying to your oratrix the said

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mortgaged

mortgaged premises, or otherwise upon their joining with her in a proper conveyance thereof unto the said *T. P.* And though your oratrix hath requested the said *J. L.* and *J. L.* to come to an account with her, touching the demands which they or either of them may have or claim, of, in, or out of, the said premises, so as the same might be settled, and your oratrix have an opportunity to pay off and discharge the same, and to take a reconveyance of the said mortgaged premises, yet do they severally refuse to comply therewith, nor will they make any discovery of the particulars of their demands, and what remains justly due to them or either of them for principal and interest upon the mortgage, nor admit your oratrix to any redemption of the said premises : All which actings, refusals, pretences and designs of the said confederates are contrary to equity and good conscience, and tend to your oratrix's great wrong and injury. **In tender consideration** whereof, and forasmuch as your oratrix cannot compel a conveyance of the said mortgaged premises, nor obtain a due execution, or any specific performance, of the contract and articles aforesaid, or be otherwise relieved in the premises than by the aid and assistance of this honourable court ; **To the end therefore**, and in order that the *T. P.* *J. L.* and *J. L.* and their confederates, when and as they shall be discovered, may upon their several and respective corporal oaths true and perfect answer make to all and singular the premises herein before set forth, as fully as if the same were here again repeated and particularly interrogated to be answered unto, and more especially that the said confederates may, according to the best of their respective knowledge, information and belief, answer and set forth, whether your oratrix was not seised in fee, or how otherwise well intitled, in and to the said freehold and customary, or tenant-right, messuages, lands, hereditaments and premises, as herein before is set forth ; and whether she did not give such notice for the sale thereof as herein before is mentioned ; and whether the said *T. P.* was not the best bidder at such sale ; and whether a bargain was not struck with him for the said premises ; and whether he did not come to such agreement, and enter into and sign such articles for the purchase thereof upon such terms, and at and for such rate and price, and to such effect, as herein before is in that behalf set forth, or to any other, and what effect and purpose ; and whether they the said *J. L.* and *J. L.* were not, or one of them was not present at the said sale, and consented thereto, or shortly and how soon after such sale acquainted therewith ; and whether they, or one, and which of them, did not thereupon agree and promise to join with your oratrix in granting and conveying the said premises, or some, and what part thereof, unto the said *T. P.* and his heirs ; and whether your oratrix hath not several times applied to the said *T. P.*



to know how or by what means or manner of conveyance he required, or his counsel advised, the said bargained premises to be granted and conveyed to him, and why or for what reason or reasons he refused to signify the same to your oratrix, or to accept of any conveyance of the said premises, or yet to pay or secure to your oratrix any part of the monies agreed to be paid for the purchase thereof; and that the said *J. L.* and *J. L.* may severally answer and set forth, whether your oratrix did not make several and what offers and proposals to induce them, or the one and which of them, to join with your oratrix in granting and conveying the said bargained premises unto the said *T. P.* and his heirs, and that they may shew cause (if they can) why they should not join with your oratrix in such grant or conveyance, or otherwise re-convey to your oratrix the said freehold premises, upon payment of what shall appear to be justly due upon the mortgage thereof to the said *J. L.* deceased, and that they may set forth what is really and justly due to them or either of them for principal and interest upon the said mortgage, and may come to a fair account with your oratrix touching the same; and your oratrix being willing that so much as shall appear, upon a fair and just account, to be due may be paid and answered by the said *T. P.* out of the monies by him agreed to be paid for the purchase of the said bargained premises, and which your oratrix doth hereby offer to allow to him, as so much paid on that account, that the said *J. L.* and *J. L.* may be obliged upon payment thereof, to join with your oratrix in granting and conveying to the said *T. P.* and his heirs the said bargained premises, or otherwise so to re-convey the same to your oratrix free from all incumbrances done by them or either of them, or by the said *J. L.* deceased; and so as thereby your oratrix may be enabled to execute the said articles of agreement, and perform the true intent thereof on her part to be performed; and that the said *T. P.* may either signify to your oratrix how and by what manner of conveyance or conveyances he will require, or his counsel shall advise, the said bargained and sold premises to be granted and conveyed to him, or otherwise that he may be decreed to take and accept of a proper and sufficient conveyance or conveyances thereof, and to pay or cause to be paid unto your oratrix or her assigns the consideration monies agreed by the said *T. P.* to be paid for the purchase of the said premises, at such days, and in such manner, as in the said articles of agreement are mentioned in that behalf; and that your oratrix (who was always ready and willing, and doth hereby offer to perform and execute every thing in the said articles contained on her part to be done and performed) may receive such further and other relief in the premises as the  
nature

nature of her case requires, and as shall be agreeable to equity and good conscience. May it please your Lordship, &c.

*Bill for a specific Performance of an Agreement for the Purchase of a Lease.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *A. B.* of — in the county of — that *C. D.* of — in the county of — being, or pretending to be, possessed of a leasehold messuage, tenement and garden, with the appurtenances, situate in — aforesaid, which he held by a lease granted from *E. F.* of — in the county of — for the term of fifteen years, commencing from *Michaelmas* last, and he being willing and desirous to sell and assign over the said term, your orator in or about the month of — last (after several meetings had for that purpose) came to an agreement with the said *C. D.* for the absolute purchase of the said lease, and all his interest therein; and which agreement was reduced into writing, and is in the words and figures following, (that is to say) *August* 4th —; *Memorandum*, it was this day agreed by and between *C. D.* of — in the county of —, and *A. B.* of the same place, that the said *C. D.* shall, on or before the 8th day of *August* instant, grant, bargain, sell and assign over unto the said *A. B.* all that messuage or tenement, and garden, with the appurtenances, except one cellar, now in the occupation of *H. P.* situate in — in the county of — in *High-Street* there, and which was lately in the possession of the said *C. D.* and by him held by lease of *E. F.* gent. for the term of 15 years, to commence from *Michaelmas* last, and the said *A. B.* is, in consideration of the sum of 10*l.* per annum, to have the said premises for the remainder of the said *C. D.*'s term, free from taxes and reparations: And the said *C. D.* in consideration of this agreement, hath received of the said *A. B.* 2*s.* 6*d.* as in and by the said memorandum or agreement, signed by the said *C. D.* and your orator in the presence of *W. D.* and *J. S.* now in your orator's custody or power, ready to be produced, relation being thereunto had, may more fully and at large appear. And your orator further sheweth unto your Lordship, that your orator was always ready and willing to perform his part of the said agreement, and to have accepted an assignment of the said lease pursuant thereto; and for that purpose your orator caused a common assignment of the said lease to be drawn for the remainder of the said term of 15 years, and which was to commence from the 29th day of *September* last, pursuant

purſuant to the ſaid agreement, and tendered the ſame to the ſaid *D.* to be executed by him, and likewise your orator at the ſame time offered to execute a counter-part thereof: And your orator hath frequently, both by himſelf and others, both before and ſince ſuch tender and offer made, applied to the ſaid *C. D.* in a friendly manner, and requested him to deliver up the ſaid leaſe, and to execute the ſaid assignment as aforeſaid, and which your orator did not in the leaſt doubt but the ſaid *C. D.* would have done. **But now ſo it is,** may it pleaſe your Lordſhip, that the ſaid *C. D.* combining and confederating to and with divers other perſons, at preſent unknown to your orator, whoſe names when diſcovered your orator prays may be herein inſerted, and they made parties hereto, with apt words to charge them, endeavouring to wrong and injure your orator in the premiſes, he the ſaid *C. D.* peremptorily reſuſes to perform the ſaid agreement, and to deliver up the ſaid leaſe, and execute a proper assignment thereof to your orator, or to permit your orator to enter and take poſſeſſion of the ſaid meſſuage or tenement and premiſes, purſuant to the true intent and meaning of the ſaid agreement. **In tender conſideration** whereof, and forasmuch as your orator is remedileſs in the premiſes by the ſtrict rules of the common law, and cannot compel a ſpecific performance of the ſaid agreement, but by the aid and aſſiſtance of this honourable court, where matters of this nature are properly cognizable and relievable: **To thz end therefore** that the ſaid *C. D.* (and his confederates, when diſcovered) may, upon their corporal oaths, true, direct, and perfect answer make to all and ſingular the matters aforeſaid, and that as fully and particularly as if the ſame were here again repeated and interrogated; and more particularly that the ſaid *C. D.* may ſet forth and diſcover whether he did not enter into ſuch memorandum or agreement as herein before is mentioned, or any other, and what memorandum or agreement; and whether your orator hath not cauſed a common assignment of the ſaid leaſe to be drawn, and tendered to him the ſaid *C. D.* to be executed purſuant to the ſaid agreement; and whether your orator hath not, ſince ſuch tender made, by himſelf and others requested the ſaid *C. D.* to execute the ſaid assignment, and ſpecifically to perform the ſaid agreement; and whether he hath not reſuſed ſo to do, and why, and for what reaſon; and that the ſaid *C. D.* may be compelled to a ſpecific performance of the ſaid agreement, and may execute a proper assignment of the ſaid leaſe, for the remainder of the ſaid term of 15 years yet to come and unexpired, to your orator, according to the true intent and meaning of the ſaid agreement; and that your orator may have the poſſeſſion of the ſaid eſtate and premiſes; and that your orator may have ſuch other, and farther relief in all and ſingular the premiſes,



premises, as to your Lordship shall seem meet; May it please your Lordship, &c.

*Another Form.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *A. B.* of ——— in the county of *Salop*, gent. that your orator was seised to him and his heirs of and in a copyhold messuage or tenement, with the lands and appurtenances situate lying and being in *Aston* aforesaid, parcel of the manor of *Chetwynd* in the said county, and being desirous to sell the same, did enter into a treaty with *C. D.* in the county of *Warwick*, for the sale thereof to him, and for the price or sum of 1500 *l.* and articles of agreement, dated the 14th of *November* 1780, were signed by him and your orator, for the purchase and sale thereof, and which said articles of agreement are in the words and figures following. [*Here insert the agreement.*] And to the said articles of agreement was subjoined a memorandum, dated and signed as above, whereby it was agreed, that the said defendant was to have the wheat, muck, soil, and all dung and straw upon the premises, and the said defendant was also to have the draught horse, and mare, and all the gearing thereunto belonging, except four waggon loads of straw; and also the said defendant was to have your orator's interest in the tithes of the said land during your orator's term thereon, paying the rent of 2 *l.* for the same to the rector of *Aston*, which chattels above mentioned, were deemed paid for in the said purchase money when the said surrender is made, and the said defendant was to have possession of all the lands as soon as he chose, except the *Whithey-pit* leasowe, and the closes behind the house, and the lower hill piece, which your orator was to hold until *Lady Day* then next ensuing, as by the said agreement, under the hands of your orator and the said *C. D.* ready to be produced to this honourable court, relation being thereunto had, may appear: And your orator further sheweth unto your Lordship, that he was always ready and willing to perform his part of the said agreement, and surrender the said premises to the said *C. D.* and his heirs pursuant thereto; and the said *C. D.* has actually paid at different times the sum of 105 *l.* unto your orator in part of the 1500 *l.* the consideration money above mentioned: And your orator further sheweth unto your Lordship, that he being ready and willing to perform the said agreement, has several times applied to the said *C. D.* and informed him thereof, and requested him to pay and secure the remainder of the consideration money to your orator, pursuant to the said agreement; and

your orator hoped he would have complied therewith, as in justice and equity he ought to have done: **But now so it is, may it please your Lordship,** that the said *C. D.* combining and confederating to and with divers persons at present unknown to your orator, but whose names when discovered, your orator prays may be inserted herein, contriving as defendants how to injure and oppress your orator in the premises, he the said *C. D.* refuses to comply with your orator's said requests, sometimes pretending that he never entered into such agreement as aforesaid with your orator; whereas your orator charges the contrary, and which the said defendant will at other times admit; but then he pretends that your orator cannot make a good title to the said premises, nor ever performed the said agreement on his part; whereas your orator charges the contrary to be true, and that the said agreement was made and entered into as aforesaid, and is in every respect a fair agreement; and that your orator can make a good title to the said premises, and is now and always has been ready and willing to perform the same on his part, and which at other times the said defendant will admit; but then he pretends that he is not bound by the said agreement, and will not perform the same. **All which actions and doings** of the said defendant are contrary to equity and good conscience, and tend to the wrong and injury of your orator in the premises. **In tender consideration whereof,** and forasmuch as your orator cannot be fully relieved in the premises, but in a court of equity, where matters of this nature are properly cognizable and relievable; **To the end therefore** that the said *C. D.* and his confederates when discovered, may upon his and their several and respective corporal oaths, to the best of their knowledge, information, remembrance, and belief, true, full and perfect answer make to all and singular the premises aforesaid, as fully and particularly as if the same were here again repeated and they interrogated thereto; and more especially that the said defendant may set forth whether your orator was not seised, or how otherwise of and in the said copyhold messuage, lands and premises as herein set forth; and whether he was not desirous of selling the same; and whether your orator and the said defendant did not enter into and sign such agreement and memorandum of such date, purport and effect as aforesaid, or any, and what other agreement and memorandum for the purchase and sale of the said premises; and that the said defendant may set forth whether he has not at any time or times paid to your orator the sum of 105 *l.* or some and what other sum in particular, in part of the said consideration money, mentioned in the said agreement; and whether your orator has not been ready to perform the said agreement on his part; and that the said defendant may set forth whether your orator has not made and

caused any applications to be made to the said defendant, for such purposes as aforesaid, and whether he has not refused to comply therewith, and if so, why so; and that the said defendant may be decreed to perform the said agreement specifically on his part, and pay to your orator the said sum of ——— l. the remainder of the consideration money above mentioned, with interest, your orator freely offering to perform the same on his part, and to surrender the said premises to the said defendant, and to make a good title thereto; and that your orator may have, &c. May it please, &c.

*A Bill to revive and Answer.*

**H**UMBL Y complaining, shew unto your Lordship, your orators *A. B.* of ——— in the county of ——— gentleman, *C. D.* late of ——— aforesaid, and late curate of ——— in the county aforesaid, now of ——— in the county of ——— clerk, *E. F.* of ——— aforesaid, and *G. H.* of ——— in ——— in the county aforesaid, yeoman, administrators of all and singular the goods and chattels, rights and credits of *J. K.* late of ——— in ——— aforesaid, deceased, with the last will or testamentary schedule of the said *J. K.* annexed; That in or about *Easter* term which was in the year of our Lord ———, your orators exhibited their bill of complaint into this honourable court, against *A. B.*, *L. M.*, *N. O.*, *P. Q.* and *R. S.* of ——— aforesaid, and *T. V.* for an account of the personal estate of the said *J. K.* and for an *injunction*, and to be relieved touching the several matters and things in the said bill complained of. And your orators farther shew unto your Lordship, that the said defendants being duly served with process to appear to and answer the said bill, they the said defendants severally appeared accordingly, and put in their answers thereto, and the *injunction* obtained by your orator in the said cause was dissolved; and thereupon your orators, in or about *Michaelmas* term ——— obtained an order to amend their bill of complaint; and the same was amended accordingly against the said defendants, and one *J. W.* was added a party thereto: And the said defendants being all duly served with process to appear to and answer the said amended bill, they severally appeared accordingly, and put in their answers thereto; and the *injunction* granted upon exhibiting the said amended bill, was (upon shewing cause) also dissolved; as in and by the said original and amended bill, answers, order, and other proceedings had in the same cause, and now remaining as of record in this honourable court, may more fully appear, and



and which your orators hereby crave leave to refer themselves to: But before any farther proceedings were had in the said cause, the said *L. M.* departed this life, to wit, in or about the month of ——— last past, whereby the said suit as to him became and is abated; and your orators further shew unto your Lordship, that the said *L. M.* did in his life-time duly make and publish his last will and testament in writing, and thereof constituted and appointed *E. M.* his wife sole executrix, who duly proved the said will in the proper ecclesiastical court, and possessed herself of all her said testator's personal estate, more than sufficient to pay his funeral expences and all his just debts; whereby the said suit ought to be revived as against the said *E. M.* his executrix, who now stands in his place and represents him; and your orators (as they are advised) are intitled to have the same relief against her, with respect to the said *L. M.* his personal estate, as they would have been intitled to against him, the said *L. M.* had he been living; and she ought to answer the premises, and ought either to admit assets of the said *L. M.* sufficient to satisfy your orator's demands claimed by the said original and amended bill, or ought to discover and account for his personal estate, as is usual in such cases, **To the end therefore** that the said suit and all proceedings therein may stand revived, and be in the same plight and condition as they were at the time of the death of the said *L. M.* and that your orators may have the benefit thereof; and that the said *E. M.* may answer and set forth whether the said *L. M.* did not make his last will and testament, and thereof did not appoint her the said *E. M.* executrix, as herein before is set forth, and whether the said *L. M.* did not depart this life at or about the time herein before set forth, or at or about what other time; and whether she the said *E. M.* did not prove the said will in some and what ecclesiastical court, and possess herself of the said *L. M.*'s personal estate; and that the said *E. M.* may either admit assets of the said *L. M.* come to her hands sufficient to pay all his debts, funeral expences, and legacies, and also to answer your orator's demands; or if she shall pretend that the said *L. M.* did not leave a sufficient personal estate for that purpose, then that she may set forth an account of all debts she pretends to be owing by her said testator, and to whom, and for what, and upon what securities; and that she may likewise set forth a full, true and particular inventory and account of all and every the goods, chattels and other personal estate and effects which the said testator *L. M.* was at his death possessed of, interested in, or any ways intitled unto, with the nature, quantities, qualities, and full and utmost values thereof; and what part has come to her hands, or to the hands of any other person, and whom, for her use, or with her privity, consent or procurement; and

how the same has been paid, applied, administered, sold, or disposed of by her, or any other person, by her direction or privity, and when, and by and to whom, and for what; and that the said *E. M.* may shew cause (if she can) why the said suit and proceedings thereon should not stand and be revived; and that the same may be revived, May it please your Lordship to grant unto your orators his Majesty's most gracious writ of *subpœna* to revive and answer, issuing out of and under the seal of this honourable court, to be directed to the said *E. M.* thereby commanding her at a certain day, and under a certain pain therein to be limited, personally to be and appear before your Lordship, in this high and honourable court, then and there to answer the premises, and to shew cause, if she can, why the said suit and proceedings therein had, should not stand and be revived against her, and be in the same plight and condition as they were at the time of the death of the said *L. M.* and farther to stand to and abide such order and decree in the premises, as to your Lordship shall seem meet. And your orators shall ever pray, &c.

*Bill of Reviver brought by an Administratrix to revive the Suit wherein her Husband was Plaintiff, who died pending the Suit.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *E. M.* of &c. widow, relict, and administratrix of the goods and chattels, rights and credits of *F. M.* late of, &c. That the said *F. M.* in or about *Hilary* term last past, did exhibit his bill of complaint into this honourable court against *F. R.* &c. defendants, thereby among other things setting forth, that [*Here recite the prayer of the original bill*] the said complainant by his said bill prayed the aid of this court, and that process of *subpœna* might be awarded against the said defendants to appear in this court and answer the premises, which being granted and the defendants therewith served, they appeared accordingly; and the defendant *T. R.* answered, and [*Set forth what proceedings have been in the cause*] as by the said bill, answer, &c. remaining as on record in this honourable court, relation thereunto being had, may more at large appear. But so it is, may it please your Lordship, that before any other proceedings were had in the said cause, the said *F. M.* died intestate, whereby the said suit and proceedings became abated; since whose death, letters of administration of the goods and chattels, rights and credits of the said complainant have been granted to your oratrix, his widow, out of the prerogative court of *Canterbury*, by virtue whereof your oratrix is become intitled to the personal estate of the

the said complainant her husband, ~~To the end therefore~~ that the said bill, answer, &c. so abated as aforesaid, may stand revived against the said defendants *T. R.* and *F. G.* and be in the same plight, state, and condition as the same were in at the time of the abatement thereof; May it please your Lordship to grant unto your oratrix his Majesty's most gracious writ of *subpœna ad revivendum*, to be directed to the said *T. R.* and *F. G.* thereby commanding them respectively at a certain day, and under a certain pain therein to be limited, personally to be and appear before your Lordship in this honourable court, then and there to shew cause (if they can) why the said proceedings so abated as aforesaid should not be revived, and be in the same plight, state, and condition as the same were in at the time of the abatement thereof; and your oratrix be further relieved in all, &c.

*A supplemental Bill to deliver up Deeds and Writings.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix, *A. B.* spinster, one of the daughters of *J. B.* late of ———, yeoman, deceased, that your oratrix, together with *E. B.* her sister, as they were two of the daughters and heirs at law of the said *J. B.* their father, did, on or about the ——— day of ——— in the year of our Lord ———, exhibit their original bill of complaint in this honourable court against *N. T.* and *R. P.* and *M.* his wife as defendants, for an account of the rents and profits of the real estate of the said *J. B.* in the said bill mentioned, to one-third part whereof she was intitled, and also for an account of his personal estate, as he the said *J. B.* died intestate, and your oratrix and the said *E.* were two of his children, and your oratrix and the said *E.* her sister having such title thereto respectively as in the said bill is alleged; and that your oratrix might be let into a redemption of her father's real estate, upon paying what (if any thing) should appear justly due and for relief. And afterwards the said original bill was amended, and the said *E. B.* who had intermarried with *J. G.* and the said *J. G.* were made defendants thereto, and the said *E.*'s name was struck out from being a party to the said original bill, and the said defendants being served with process of *subpœna*, they did accordingly appear to and answer the said amended bill, and the said answers were replied unto, and issue being joined, several witnesses were examined; but before publication was passed in the said cause, your oratrix hath discovered, and your oratrix by way of supplement doth now hereby charge, that the said *N. T.* now or late had in his custody or power, or at some time



time or times had seen or read some deed of settlement or writing, and particularly a deed bearing date in or about the year — of and concerning the real estate of the said *J. B.* the father; which said deed of settlement, or some other deed or writing to such purport or effect, was made on the marriage of the said *J. B.* the father, with *A.* his first wife, long since deceased, who was the sister of the said *N. T.* and thereby, or by some other deed or writing, the said real estate of the said *J. B.* or great or some part thereof, was so settled and limited, as that after the death of the said *J. B.* the father, without issue by the said *A.* the same was to be to the use of the issue or heirs of the body of the said *J. B.* the father; and he the said *J. B.* the father had issue only one child by the said *A.* his wife (to wit) *J. B.* who died long since without issue and unmarried, but he the said *J. B.* the father, by *E.* his second wife, left issue three daughters (to wit) your oratrix and the said defendants *M.* and *E.* and your oratrix and the said *M.* and *E.* are now the heirs of the body of the said *J. B.* the father, and intitled to the same by and under the said deed of settlement, or other deed or writing as aforesaid; and there happening some differences between the said *J. B.* the father in his life-time, and the said *N. T.* and there being a bill exhibited in this honourable court in relation thereunto, he the said *N. T.* as your oratrix hath lately, and since issue was joined as aforesaid, discovered that he the said *N. T.* did in his answer to the said bill of the said *J. B.* the father, admit that he had in his custody several deeds and writings relating to or concerning the said real estate, and particularly the said deed of settlement made on the marriage of your oratrix's said father with the said *A.* in which he the said *N. T.* was a trustee; and he the said *N. T.* did in and by the same answer to the said bill of the said *J. B.* the father declare and say that in case the said *J. B.* the son should die without issue and under age, the lands settled on the issue of the said *J. B.* the father's first marriage, would come to the said *E.*'s children, as heirs of the body of the said *J. B.* the father, as in and by the said bill of the said *B.* the father, and the said *N. T.*'s answer thereunto, remaining as of record in this honourable court, doth and will more fully appear: But the said deed of settlement, and the said other deeds and writings, have been all along concealed from your oratrix, and he the said *N. T.* as he was a trustee named in the said settlement, ought to have discovered and delivered up the same unto your oratrix, and thereby it doth and will appear, that your oratrix and her said sisters *M.* and *E.* are tenants in tail of and in the said premises, and that the same ought to be divided between them; and if the said deed of settlement is not now to be produced, the same hath been fraudulently torn, burnt, or destroyed, but how or when, or by whom

he

he the said *N. T.* doth refuse to discover. **To the end therefore** that they the said *N. T.* and *R. P.* and *M.* his wife, and *J. G.* and *E.* his wife, may answer all and every the matters and things herein before charged by way of supplement, and that he the said *N. T.* may discover and set forth, whether, as he knows or believes, he at any time, and when, and how long had the said deed of settlement in his custody or power, or any other, and what deed, paper, or writings to the effect or purport hereinbefore mentioned, and what is become of such deed of settlement, and all other the deeds, papers, and writings before mentioned, or any or either, and which of them as he the said *N. T.* knows or believes, and when he last saw the said deed of settlement, or the said other deeds, papers, and writings; or any or either, and which of them; and that the said deed of settlement, and the said other deeds, papers, and writings may be delivered up safe and uncanceled, and that your oratrix may be relieved in the premises as the nature and circumstances of her case shall require. May it please your Lordship,  
*&c.*

*A Bill of Revivor, and supplemental Bill.*

**H**UMBL Y complaining, shew unto your Lordship, your orators Sir *J. T.* of —, in the county of —, Bart. and *T. P.* of —, in the said county, Esq; who are the surviving and only acting executors and trustees named in the last will and testament of *H. P.* late of — in the county of —, Esq; deceased, That your orators did in or about *Trinity* term —, exhibit their bill of complaint into this honourable court against *F. S.* Esq. *A. S.* Esq. *W. S.* Esq. Sir *E. S.* Bart. *W. P.* Esq. formerly called *W. B.* Esq. *W. F.* Esq. *T. F.* Esq. and *M.* his wife, late wife of the said *H. P.* deceased, *H. G.* Esq. and *W. P.* Gent. defendants (amongst other things) for a discovery of the real and personal estate of the said *H. P.* and in particular, what real estate he purchased after the date of his said will, and for the directions of the court touching the trusts created by the said *H. P.*'s said last will and codicil; and the said defendants being duly served with process for that purpose, did appear to your orators said bill, and the said defendants *F. S.*, *W. P.* *T. F.* and *M.* his wife, *H. G.* and *W. P.* put in their answers thereto; to which said answers of the said defendants, *F. S.* *W. P.*, *T. F.* and *M.* his wife, *H. G.* and *W. P.* your orators replied, and it was thereon joined, and divers witnesses were examined in the said cause, and their depositions duly taken and returned, as by the said bill, answers, replication, and depositions

tions of witnesses, all of them remaining duly filed and of record in this honourable court, relation being thereunto had, may more fully and at large appear. And your orators further shew unto your Lordship, that before the said defendants Sir *E. S.* *A. S.* and *W. S.* put in any answer to the said bill, or the said cause received a hearing, the said *W. P.* died intestate on or about the — day of —, and the said *A. S.* also died on or about the — day of —, in the year — whereby the said suit as to them became and is abated; and your orators further shew, that *J. P.* of —, Gent. hath taken out letters of administration to the said *W. P.* out of the court of the archdeacon of —, in the said county of —, and your orators are thereby become entitled to have the said suit and proceedings revived against the said *J. P.* and to have the same benefit thereof, and relief against him as they should or might have had against the said *W. P.* (unless the said *J. P.* can shew good cause to the contrary); and the said *J. P.* ought to admit assets of his said intestate come to his hands, to answer any demands your orators have against the estate of the said *W. P.* or else to set forth a particular and true account of his said intestate's estate, and how the same hath been applied and disposed of. And your orators further shew (by way of supplement), that the said *H. P.* having contracted for or purchased the manors of — and —, and — and the manor-house called —, and other lands and tenements thereunto belonging, which was and were formerly the estate of *T. B.* Esq. it is pretended the same was so done after the date of the will and codicil, or some of them; and the said Sir *E. S.* laying some claim thereto, it is also pretended that the said Sir *E. S.* and *F. S.* conveyed their right and interest therein and thereto to the said *A. S.* who, as is pretended, in his life-time duly made and published his last will and testament in writing, and therein and thereby devised part of the said estate late of the said *A. B.* to *J. G.* of —, in the county of —, Gent. and his heirs, or to *L. G.* wife of the said *J. G.* and who was the said *A.*'s sister, and her heirs, or to the said *L. G.* for her life, remainder to *A. G.* her son by the said *J. G.* and his heirs; and other part of the said late *A. B.*'s estate called *P.* to Mrs. *H. S.* another sister of the said *A. S.* and her heirs; and the other part of the said estate, to wit, — manor and lands to *M. S.* and *H. S.* his sisters, and whom, as it is also pretended, he made executrixes of his said will, either to them and their heirs, or in trust to pay his debts, the residue thereof, after payment of his debts to the said *W. S.* his brother and his heirs: and the said Sir *E. S.*, *W. S.* *H. S.* *J. G.* and *L.* his wife, and *A. J.* their son, *M. S.* and *K. S.* pretend some right or title in or to the said lands and premises late Mr. *B.*'s; yet they refuse to discover



ver what their said claims are, or by what deed or title they claim, or who is in possession thereof, and of every part thereof; and though your orators are advised, to the end it may be determined by this court, whether all or any part of the said late Mr. B's said manors, lands, and estate is part of the trust estate intended to be settled by the said H. P's will or codicils, and for that purpose the said Sir E. S. ought to set forth what right or title he claims therein or thereto, or to any part thereof, if any; and for that purpose he ought to answer this bill, as well as your orator's original bill; and the said W. S. ought so to do, he claiming in reversion under the said H. P's will, as well as under the said A. S's will; and the said H. S., J. G. and L. his wife, A. G. their son, and M. S. and K. S. the executors of the said A. S. ought also so to do, if they, or either of them, claim any right or title thereto, or interest therein, or in or to any part thereof. ~~To the end therefore~~ that the said Sir E. S., W. S., H. S., M. S., K. S., J. G. and L. his wife, and A. G. their son, may so do, and that the said suit and proceedings may stand revived, and be in the same plight and condition as they were in at the time of the death of the said W. P. or that the said J. P. may shew cause to the contrary, and may admit assets of his said intestate sufficient come to his hands to answer your orator's demands; or may set out a particular, full, and true account of his said intestate's estate and effects, and how the same hath been paid, applied, and disposed of; May it please your Lordship, &c.

Plaintiffs pray process to revive and answer.

*Another Bill of Revivor.*

**H**UMBL Y complaining, sheweth unto your Lordship, your oratrix S. B. of ——— in the county of ——— widow, only sister and heir at law of T. B. late of ———, in the said county, Gent deceased, administrator of all and singular the goods and chattels, rights and credits of the said T. B. and also the aunt, heir at law of M. B. late of ——— afore-said, spinster, deceased, who was the only daughter of the said T. B. that your oratrix in or about *Michaelmas* term, which was in the year of our Lord ———, exhibited her bill of complaint into this honourable court against H. T., T. P., J. L., H. B., J. B., S. B., E. D., D. S., E. R., A. S., E. P., D. H., and J. W. (amongst other things) to be relieved touching the matters therein contained, and to set aside the pretended will of the said M. B. and that the same might be delivered up to your oratrix to be cancelled, and that the defendants might release

release all their right or pretence of right or title to the real or personal estate of the said *M. B.* and might account for the rents and profits thereof, and that the said confederates *S. P. H.* and *W.* might assign the terms in them vested to such trustee or trustees as your oratrix should appoint. To which bill all the said defendants (being served with proces of *subpœna*) appeared, and the said *H. T., T. P., J. L., H. B., J. B., S. B., E. P., D. S., E. R., A. S., E. P. D. H.,* and *J. W.* severally put in their answers thereto, and your oratrix replied to all the said defendants (*P. H.* and *W.*) and rules were given to pass publication, which was by order of this court enlarged to the first day of next *Easter* term —, but no witnesses are yet examined, and the cause is set down to be heard before your Lordship, as in and by the said bill, answers, and proceedings thereupon had, remaining as of record in this honourable court, relation being thereunto had, may more fully and at large appear: And your oratrix further sheweth unto your Lordship, that before any other proceedings were had in the said cause, (that is to say) about the — day of — last the said *A. S.* died, by means whereof the said cause and proceedings therein as to him became and are abated. And your oratrix further sheweth unto your Lordship, that the said *A. S.* did in his life-time make his last will and testament in writing, dated on or about the 1st day of *May* — and did thereof constitute and appoint *M. S.* of *M.* in the county of —, Esq. his brother, sole executor and residuary legatee, who hath since his said brother's death duly proved the said will and accepted of the said executorship, and your oratrix is thereby intitled to have the same benefit and relief against the said *M. S.* as your oratrix should or might have had against the said *A. S.* To the end therefore that the said suit and proceedings may stand revived, and be in the same plight and condition against the said *M. S.* as the same were at the death of the said *A. S.* and that your oratrix may have the same benefit thereof, or that he the said *M. S.* may shew good cause to the contrary May it please your Lordship to grant unto your oratrix his Majesty's most gracious writ or writs of *subpœna* to be directed to the said *M. S.* thereby commanding him, &c.

*A Bill by an Administratrix for an Account; and to revive a Decree, and carry it into execution.*

**H**UMBL Y complaining, sheweth unto your Lordship, your oratrix *A. C.* widow and relict of *P. C.* late of — in the county of —, Esq. deceased, and mother, and administratrix

stratrix of the goods and chattels, rights and credits of *P. C.* deceased, who was eldest son and heir of the said *P. C.* your oratrix's late husband, deceased, by your said oratrix, That some time in or about the — day of — your oratrix and *W. C.* the younger son of the said *P. C.* your oratrix's said late husband deceased, by your said oratrix, an infant then under the age of 21 years, (that is to say the age of —) by your said oratrix, his mother, and next friend, exhibited their bill of complaint in this honourable court against the said *P. C.* as the eldest son and heir of the said *P. C.* your oratrix's said late husband, by your said oratrix, he being then an infant under the age of twenty-one years, *L. R. W. W. W. L.* and *G. C.* and *W. C.* younger brothers of your oratrix's said late husband, setting forth, (amongst divers other matters and things), that previous to the marriage of your oratrix with the said *P. C.* your oratrix's said late husband deceased, the said *P. C.* in consideration of the said marriage, and of your oratrix's marriage portion, by certain articles, bearing date the — day of —, and made or mentioned to be made between the said *P. C.* of the one part, and the said *W. L.* and your oratrix of the other part, he the said *P. C.* did thereby covenant for himself, his heirs, executors, and administrators, immediately after the solemnization of such marriage, to settle the manor of —, with the appurtenances, and divers other lands and hereditaments therein particularly mentioned, in the parishes of — and —, in the said county of —, to the use of himself for life, without impeachment of waste, remainder to trustees to support contingent remainders; remainder to the use of the first and other sons of him the said *P.* on the body of your oratrix to be begotten in tail male; with remainder to *L. C.* since deceased, brother of the said *P. C.* and all others the brothers of the said *P. C.* according to their seniority successively in tail male, with remainders to the right heirs of the said *P. C.* And also setting forth, that soon after the execution of the said articles, the said marriage took effect, and that in *March* —, the said *P. C.* your oratrix's said late husband died, leaving your oratrix his widow, and the said *P.* since deceased, his eldest son, and the said *W. C.* his only children by the said marriage then living, having first duly made and published his last will and testament in writing, bearing date the — day of, — and therein taking notice of his said marriage articles, confirmed the same, save and except the uses to his brother *G.* and his issue in tail, which he revoked as therein is mentioned; and devised all his manors, houses, messuages, rectories, advowsons, lands, tenements, and hereditaments, and the reversion thereof, with all his estate therein, unto the said *L. R.* and *W. W.* their heirs and assigns, in trust for the performance of the said marriage articles



ticles (save as before excepted), and for the intents and purposes therein, and in the said will set forth; and particularly, that the said trustees and the survivor of them, and the executors of such survivor, should have the sole direction of all his real estate, to let and set the same, and receive the rents, issues, and profits thereof, until one of his sons should attain the age of twenty-one years, and should apply the rents and profits of all his real estate, save such as should be applied in the maintenance and education of his said son *P. C.* or his younger son (in case he should survive him), for payment of all or part of the principal or interest of any mortgages or incumbrances upon his said estate, or any part thereof, and made your oratrix sole executrix of his said will, who after his death duly proved the same, and took upon herself the burthen of the execution thereof; and further setting forth, and praying in and by the said bill to be relieved as therein is prayed. And your oratrix further sheweth unto your Lordship, that the said defendants, being served with process, did appear to and put in their several answers to your oratrix's said bill, and the said *L. R.* and *W. W. W. L. G. C.* and *W. C.* thereby severally and respectively admitted, that such articles were duly executed, and that such marriage was had, and that the defendant *P. C.* since deceased, and the said plaintiff *W. C.* were the only issue thereof; and that the said testator died in *March* ———, having made such will as aforesaid, and thereof your oratrix sole executrix; but the defendant *R.* denied he had received any of the rents and profits of the said testator's estate since his death; but the defendant *W.* admitted that he had received the same, and submitted to account as the court should direct: And the said *P. C.* the infant put in his answer to the said bill, by *T. B.* his guardian, and thereby (amongst other things) submitted his interest in the premises to the care and protection of the court. And your oratrix further sheweth unto your Lordship, that the said cause being thereupon at issue, and witnesses examined on both sides, the same came afterwards to be heard, to wit, the 20th day of *February* in the sixth year of the reign of his present Majesty King *George* the Second, before the then Master of the Rolls; and thereupon it was (amongst other things) declared and decreed by his Honour, that the said testator's will was well proved, and that the trusts thereof ought to be performed; and that the said manor of *A.* and lands agreed to be settled by the said marriage articles, were to go according to the limitations of the said marriage articles, discharged of the said testator's debts, and that Mr. ———, one of the Master's of this honourable court, should take an account of the said testator's debts and legacies, which were to be paid first out of the said sum of ———, part of your oratrix's portion; and the residue thereof was to be raised and paid out of the

the rents and profits, or by sale or mortgage of the said testator's real estate, by the said articles and will particularly appropriated for that purpose, with the approbation of the said master; and any deficiency therein was to be made good out of the other part of the testator's real estate not in settlement to your oratrix; and that a fit and proper person should be appointed to receive the rents and profits of all the said testator's real estates; and the said master was to see what was proper to be allowed for the maintenance of the defendant *P. C.* and the plaintiff *W.* his brother respectively, as well for the time past, as to come, and to state the same to the court, whereupon such further order should be made as should be just; and what was to be allowed for their respective maintenance, was to be paid to your oratrix their mother, out of the rents and profits of the said estates so long as she could maintain them, and until further order of court, to the contrary: and all other proper directions were given for the taking the said account; as by the said bill and answers, and the other proceedings in the said cause, and the said decretal order made upon the hearing thereof, remaining as of record in this honourable court may more fully and at large appear, and to which your oratrix humbly craves leave to refer herself. And your oratrix further sheweth unto your Lordship, that after hearing the said cause, and making the said decree, to wit, in or about the month of *December*—, the said defendant *P. C.* the eldest son and heir of the said testator *P. C.* departed this life intestate, and without issue, as did also the defendant *W. W.* in or about the month of —; by reason whereof your oratrix is advised, that the said cause, and the proceedings and decree had therein, as to them the said *P. C.* and *W. W.* became and are abated. And your oratrix further shews unto your Lordship, by way of supplement to her said former bill, that upon the death of the said testator *P. C.* the said manor of *A.* and lands and premises of *W.* agreed to be settled in and by the said marriage articles, as therein and herein before is mentioned, and which were discharged by the said decree from payment of the said testator's debts as aforesaid, did by virtue of the said marriage articles, immediately upon the death of the said *P. C.* your oratrix's late husband, come to the said *P. C.* as eldest son and heir of the said marriage, and his heirs male, and that he became intitled to the rents and profits thereof from the death of his said father to his own death, and upon his death the said estates came to the said *W. C.* the testator's said second son, and one of the defendants hereinafter named as tenant in tail by virtue of the said articles; and your oratrix further sheweth, that the said *W. W.* was appointed receiver of the rents and profits of the said testator's real estates pursuant to the said decree, and, as your oratrix is informed, the said *W. W.* till the time

time of his death, and the said *L. R.* or one of them, not only received the rents and profits of the said testator's real estate, subjected to the payment of his debts, but also of the said settled estate which belonged only to the said *P. C.* her son, and applied the same promiscuously with the rents of the said other estates in payment of the said testator's debts and legacies, or for some other uses and purposes for which the same were no ways applicable; and your oratrix further sheweth, that the said *W. W.* some time before his death, duly made his last will and testament in writing, and thereof appointed *C. B.* of *M.* in the said county of *N.* gentleman, and *R. H.* of the same place, gent. executors, who have proved the same, and possessed themselves of his personal estate; and since the decease of the said *W. W. L. L.* of —, in the said county of —, gent. hath been appointed receiver of the said testator *P. C.*'s said real estates; and your oratrix further sheweth, that there was a great arrear of rents and profits due to the said *P. C.* her son at the time of his decease, for the said manor of —, and the said lands and premises at —, agreed to be settled as aforesaid, and then unreceived and in the hands of the several tenants, who held and rented the same, amounting to the sum of — and upwards, and that some part thereof since the deceases of the said intestate *P. C.* and the said *W. W.* hath been received by the said *C. B.* by virtue of or under pretence of some order or direction for that purpose, and that the other part thereof hath been received by the said *L. L.* the said receiver, and the said *L. R.* the said surviving trustee, or some or one of them, and which they the said *C. B. L. L.* and *L. R.* pretend to have paid and applied towards the payment of his the said *P. C.* the testator's mortgage, and other his debts due and payable out of the other part of his said real estate, in the pleadings in the aforesaid cause mentioned, contrary to the said decree made upon the hearing thereof as aforesaid; and your oratrix further sheweth, that soon after the death of the said *P. C.* her said son, letters of administration were granted to her out of the prerogative court of *York*, and thereupon, and by virtue thereof, she became well intitled to all and singular the rents and profits of the said manor of *A.* and lands and premises at *W.* received by the said *W. W.* the said late receiver, and the said *L. R.* which accrued due for the same estates after the death of the said testator *P. C.* or which were received by them after making the said decree in the said intestate's life-time, over and above his maintenance, and all the arrears thereof, which were in the hands of the tenants and unreceived, and due to the said *P. C.* your oratrix's said late son at the time of his death, and ought to have received the same, and to have had an account thereof, and the same ought to be distributed in

moieties



moieties between your oratrix and her said son *W.* as by the same letters of administration in the custody or power of your oratrix, and ready to be produced to this honourable court, may appear. And your oratrix humbly insists, that by virtue of the said letters of administration, your oratrix stands in the place of the said *P. C.* her said son deceased, as to the said rents and profits received of his said estate as aforesaid in his life-time, and which were due to him and in arrear, and received as aforesaid since his death, and thereupon is intitled to have the aforesaid decree made upon the hearing of the said cause revived and carried into execution, and to have the benefit of all the said proceedings, in such manner as this honourable court shall direct. And your oratrix further sheweth, that they the said *W. C.* her son, *C. B.*, *R. H.*, *L. L.*, and *L. R.* have entered into a combination and confederacy how to defeat your oratrix of the said moiety or half-part of the said rents and profits of the said manor of *A.* and lands and premises at *W.* which were received by them the said *W. W.* and *L. R.* in the life-time of the said intestate *P. C.* over and above his maintenance, and which were due and in arrear to the said intestate *P. C.* her said son at the time of his death, and which have since his death been received by the said *C. B.*, *L. L.* and *L. R.* or some of them, and to all which, and an account thereof, your oratrix is well intitled as aforesaid; and thereupon the said confederates, and especially the confederates *C. B.*, *R. H.*, *L. L.*, and *L. R.* refuse to give your oratrix any account thereof, or to pay her the same; and they the said *C. B.* and *R. H.* pretend that the said *W. W.* did not leave assets sufficient to answer and make good to your oratrix what he so received; and the said *W. C.* pretends that he is intitled to the whole of the rents and profits of the said manor of *A.* and the lands and premises at *W.* which were received by the said *W. W.* and *L. R.* in the life-time of the said intestate *P. C.* over and above his maintenance, as also to the whole of the rents and profits which were in arrear and due to the said intestate *P. C.* at the time of his death for the same, or that the same ought to be applied in discharge of the said *P. C.* his late father, the testator's debts; whereas your oratrix doth expressly charge as above, and that the said *W. C.* was intitled to one moiety or half-part thereof only, and that your oratrix is well intitled as aforesaid to the other moiety or half part thereof; and your oratrix doth also insist, that as the said manor of *A.* and the lands and premises at *W.* agreed to be settled as aforesaid, were by the said decree discharged from the payment of the said testator *P. C.*'s debts, that therefore the said rents and profits thereof, which were due to the said intestate *P. C.* at the time of his death, and received as aforesaid, ought not to go and be applied towards the payment thereof, but ought to be equally divided share and share alike,

after

after just deductions and allowances made out of the same between your oratrix and him the said *W. C.* her son. In tender consideration whereof, and to the end that the said confederates, and every of them, may answer all and singular the premises hereinbefore added by way of supplement, as fully, particularly, and distinctly, as if the same were here again repeated and interrogated, and more especially that the said *C. B.* and *R. H. L. L.*, and *L. R.* may set forth a true and just account of all and singular the rents and profits of the said manor of *A.* and lands and premises at *W.* which they the said *W. W.* and *L. R.* or either of them, or which any other persons by their, or either of their order or for their or either of their use, did receive in the life-time of the said intestate *P. C.* and also a just and true account of the arrears thereof due to him the said intestate at the time of his death, and which since his death have been received by the said *C. B.*, *L. L.* and *L. R.* or any of them, or any other person or persons by their, or any of their order, for their or any of their use or uses, separately and distinctly in each and every of the said years they so received the same; and how much they deducted, paid, or allowed out of the same in each and every of the said years separately and distinctly, and for what, and upon what account, and how much the same amounts unto in the whole after such deductions, and how and in what manner, and to and for whose use and benefit they paid and applied the same, or otherwise disposed thereof; and that the said *C. B.* and *R. H.* may either admit assets of their said testator sufficient to answer your oratrix's demand upon the said *W. W.*'s estate, or else that they may set out a true and perfect inventory and particular of all and singular his goods, chattels, rights, and credits, and how the same hath been paid, applied, or otherwise disposed of; and that the said confederates may set forth, whether your oratrix hath not since the death of the said *P. C.* her said son, taken out letters of administration to all and singular his goods, chattels, rights, credits, and personal estate whatsoever; and whether your oratrix is not well intitled to have a just account of the said rents and profits, and in her own right intitled to one full undivided moiety or half-part of all and singular the said rents and profits of the said manor of *A.* and the lands and premises at *W.* received by the said *W. W.* and *L. R.* during the life-time of the said intestate *P. C.* over and above his said maintenance, and all the arrears thereof which were due and in arrear to him the said intestate *P. C.* at the time of his death; and that they the said *C. B.*, *R. H.*, *L. L.* and *L. R.* may set forth their reasons why they refuse to account with and pay to your oratrix the same; and that they may be compelled forthwith to come to a just and fair account with your oratrix, and to pay to your oratrix what shall appear to be due

to her upon such account; and that the said decree may be revived and carried into execution; and that your oratrix may have the benefit of all the aforesaid proceedings and decree, in such manner as this honourable court shall direct; May it please your Lordship, &c.

*A Bill brought by a Husband as Administrator to his Wife, to obtain a Leasehold Estate, devolved to her as Heir at Law to her Father.*

*To the Right Honourable Edward Lord Thurlow, &c.*

**H**UMBL Y complaining, sheweth unto your Lordship, your orator *E. N.* of, &c. administrator of all and singular the goods, chattels, rights, and credits of *Mary* his late wife deceased, who was one of the daughters of *J. E.* late of, &c. deceased, by *Mary* the late wife of the said *J. E.* also deceased, that the said *J. E.* being possessed of or otherwise well and sufficiently entitled unto a certain piece or parcel of ground, with a brick messuage or tenement, and other erections, buildings, and improvements thereon made, or built at \_\_\_\_\_ in the said county of \_\_\_\_\_ for the remainder of a term of 89 years, thereof granted unto him the said *J. E.* by indenture, bearing date on or about the 10th day of *August* which was in the year of our Lord 1704, and to commence from the 24th day of *June* then last, at or under the yearly rent of 5 *l.* payable for the same as therein mentioned. And the said *J. E.* being minded to make some provision for his wife and children, if they survived him, by indenture, bearing date on or about the 31st day of *March* which was in the year of our Lord 1705, made, or mentioned to be made, between the said *J. E.* of the one part, and *T. A.* and *J. K.* of the other part; the said *J. E.* for the considerations therein mentioned, did assign, transfer, and set over unto the said *T. A.* and *J. K.* their executors, administrators, and assigns, the said herein before mentioned indenture of lease and the premises thereby demised, to hold for the remainder of the said term of 89 years therein then to come, upon the several trusts therein and herein after mentioned that is to say, upon trust to permit him the said *J. E.* to receive the rents and profits thereof for his life, and from and after his death, then upon trust to permit and suffer *M. E.* his wife to receive and take the rents, issues and profits thereof, for the term of her natural life, and from and after the death of the survivor of them the said *J. E.* and *Mary* his wife, then upon trust to assign the said premises to such of the children of the



said *J.* and *M. E.* as should be living at the death of the survivor of them, as in and by the said indenture duly executed by the said *J. E.* now in the custody or power of *J. T.* relation being thereunto had, may more fully appear. And your orator further sheweth unto your Lordship, that the said *J. E.* departed this life some time on or about the 20th day of *November* which was in the year of our Lord 1720, intestate, leaving the said *M.* his widow, and only two children, to wit, *Elizabeth*, who intermarried with *W. B.* of, &c. and the said *Mary* your orator's said late wife, and no other issue then living; and that soon after the death of the said *J. E.* the said *Mary* his widow procured letters of administration of all and singular the goods, chattels, rights, credits, effects, and personal estate to be granted to her by and out of the proper ecclesiastical court. And the said *J. E.* being at the time of his death possessed of, interested in or otherwise well and sufficiently entitled unto a very considerable personal estates consisting (amongst other particulars) of and in several leasehold messuages, tenements, grounds, buildings, and other premises situate, lying and being in the parish of ——— aforesaid, or elsewhere, in the county of *Middlesex* and city of *London* or one of them, wherein were long terms of years to come at the death of the said *J. E.* annuities, ready money, money due upon mortgages, bonds, bills, and other specialties, and upon notes, and otherwise by simple contract, arrears of rent, stocks in divers public and private funds and companies, plate, jewels, rings, watches, linen, household goods, and other goods, chattels, rights, credits, and effects, much more than sufficient to pay all his just debts and funeral expences, with a very great overplus, she the said *M. E.* by virtue of the aforesaid letters of administration, and by virtue of or under the aforesaid indenture of settlement, did shortly after the death of the said *J. E.* enter upon and possess herself of all the said intestate's leasehold messuages or tenements, and of all other his personal estate, consisting of the several particulars herein before specified or mentioned, and continued in the possession and receipt of the rents, issues, and profits thereof, until the time of her death, which happened at or about the time herein after mentioned; but never exhibited any inventory thereof into a proper ecclesiastical court, or into the common serjeant's office of the city of *London*, as she ought to have done, he the said *J. E.* being a freeman of the city of *London*. And your orator further sheweth unto your Lordship, that the said *J. E.* dying intestate as aforesaid, the said *Mary* your orator's said wife, as one of his daughters and next of kin, thereupon became entitled to a distributive share of her said late father's personal estate, not included in the said indenture of settlement, either by virtue of the statute for distribution of intestate's personal

sonal estates, or according to the custom of the city of *London*, And your orator further sheweth unto your Lordship, that before any distribution had been made of any part of the said intestate *J. E.*'s personal estate, the said *M. E.* his widow and administratrix departed this life, to wit, on or about the 26th day of *December*, in the year of our Lord 1740, having, as is pretended, first duly made and published her last will and testament in writing, bearing date on or about the 8th day of *June* 1739, and thereby, after reciting or taking notice that she was possessed of the several messuages or tenements, with the appurtenances in ——— aforesaid, which she held by several leases thereof granted unto the said *J. E.* her late husband, deceased, wherein there was a long term then to come; and also a piece of land fronting ——— in the parish of ——— which she held by lease from *J. H.* she thereby gave and bequeathed all her said messuages or tenements, with the appurtenances in ——— aforesaid, and the said piece of land which she held from the said *J. H.* together with the several leases by which she held the same, unto her two friends Mr. *R. H.* and Mr. *D. C.* to hold to them, their executors, administrators, and assigns, during such terms as should be therein to come at the time of her decease, upon trust to permit and suffer her daughter *E. B.* to receive and take to her own separate use, one moiety of all the rents and profits thereof, during so long of the said terms as her said daughter should happen to live, she from time to time paying one half of the ground-rent and repairs of the said premises; and after the death of her said daughter *E. B.* then upon trust, that her said moiety of the said premises should go and be assigned to and amongst such child or children, as she should have living at the time of her decease; and for want of such issue, that then the same should go and be assigned to her other daughter *Mary* the late wife of your orator (then *M. F.*), and upon trust, that the said trustees should permit and suffer her other daughter the said *Mary*, your orator's said late wife, to receive and take to and for her own separate use, the other moiety of all the rents, issues and profits of the said premises, during so long of the respective terms therein, as she the said *Mary* your orator's said wife should live, she the said *Mary* paying one half of the ground-rent and repairs of the said premises; and after the decease of her said daughter *Mary*, then upon trust, that her said moiety of the said premises should go and be assigned to and amongst such child or children as she should have living at the time of her decease; and for want of such issue, that then the same should go and be assigned to her sister the said *E. B.*; and in case both the said testatrix's said daughters should die without issue, that then the whole thereof should go to such person or persons as

the surviſor of them her ſaid two daughters ſhould think fit to give or diſpoſe thereof by her will; and in default thereof, then to the executors or adminiſtrators of ſuch ſurvivor; and gave all the reſidue of her perſonal eſtate to be equally divided between her ſaid two daughters, *Elizabeth* and *Mary*, and of her ſaid will, conſtituted and appointed the ſaid *R. H.* and *D. C.* joint executors; and the ſaid *M. E.* afterwards by a codicil to her ſaid will, bearing date on or about the 16th day of *November 1739*, did revoke the ſaid bequeſt of the reſidue of her perſonal eſtate; and did by the ſaid codicil give and deviſe all the reſidue of her eſtate whatſoever (after payment of her debts, funeral charges, and legacies) unto the ſaid *R. H.* and *D. C.* upon truſt to pay, apply, and diſpoſe of one half of ſuch reſidue of her eſtate, to and for the ſeparate uſe and benefit of her ſaid daughter *E. B.* or to ſuch perſon or perſons as ſhe ſhould by any writing under her hand direct or appoint, and that the ſame ſhould not be ſubject or liable to the intermeddling, debts, or engagements of her huſband, or he to intermeddle therewith, and upon truſt to pay and apply the other moiety of the ſaid reſidue of her eſtate unto her ſaid daughter *Mary*, or to ſuch perſons and for ſuch uſes only as her ſaid daughter *Mary* ſhould by writing ſigned by her notwithstanding her coverture appoint; and willed that the ſame ſhould not be ſubject to the debts, controul, or engagements of any huſband ſhe ſhould thereafter marry, as in and by the ſaid will and codicil, relation being to them reſpectively had, may more fully appear: And your orator further ſheweth unto your Lordſhip, that the ſaid *R. H.* and *D. C.* reſuſing to prove the ſaid will, and having renounced the ſaid executorſhip, letters of adminiſtration of all and ſingular the goods, chattels, effects, and perſonal eſtate of the ſaid *M. E.* with her ſaid will and codicil thereunto annexed, were afterwards duly granted by and out of the prerogative court of the Archbiſhop of *Canterbury*, unto the ſaid *Mary* your orator's ſaid late wife, deceased, as daughter and next of kin of the ſaid *M. E.* but before the ſaid *Mary* your orator's ſaid wife had poſſeſſed herſelf of any part of the perſonal eſtate of the ſaid *M. E.* deceased, by virtue of or under the aforeſaid letters of adminiſtration, ſhe the ſaid *Mary*, your orator's ſaid late wife, departed this life inteſtate and without iſſue, to wit, on or about the 24th day of *November*, in the year of our Lord 1742, and ſhortly after her death, your orator procured letters of adminiſtration of her perſonal eſtate, to be granted to him by and out of the prerogative court of the Archbiſhop of *Canterbury*, by virtue whereof, your orator is become entitled to all his ſaid wife's right, title, ſhare and intereſt of, in and to the perſonal eſtate of the ſaid *J. E.* her ſaid late father deceased; and your orator hath likewiſe procured letters of adminiſtration of the goods, chattels,



chattels, and personal estate of the said *J. E.* unadministred by the said *M. E.* to be granted unto your orator by and out of the said prerogative court of the Archbishop of *Canterbury*: And your orator further sheweth unto your Lordship, that on or about the 9th day of *January* which was in the year of our Lord 1743-3, the said *Elizabeth*, the other daughter of the said *J.* and *M. E.* and wife of the said *W. B.* died intestate, leaving the said *W. B.* her husband and only one child, viz. *Elizabeth B.* an infant now living; and the said *W. B.* since the death of his said wife, hath procured letters of administration of the goods, chattels, rights, credits, and personal estate of the said *Mary E.* unadministered by the said *M. N.* your orator's said wife, to be granted to him by and under the seal of the prerogative court of the Archbishop of *Canterbury*, and by virtue or under colour thereof, hath entered upon, and possessed himself of, as well the said several leasehold messuages or tenements and premises at ———— aforesaid, which belonged to the said *J. E.* at the time of his death, and received the rents, issues, and profits thereof; and hath likewise possessed himself of all other the personal estate of the said *J. E.* which remained unapplied or unconverted at the time of the death of the said *Mary E.* and also of all and singular other the personal estate and effects, whereof the said *M. E.* died possessed of, interested in, or entitled unto, and which at the time of her death consisted of and in divers leasehold messuages or tenements, lands and premises, ready money, money due upon mortgages, judgments, bonds, bills and other specialties, and upon notes, and other simple-contract debts, stocks in divers public and private funds and companies, plate, jewels, watches, rings, pictures, linnen, household goods, and other goods, chattels, effects, and personal estate, to a very considerable amount or value; and much more than sufficient to answer and make good the distributive shares which ought to have been made by her, by and out of the personal estate of the said *J. E.* which came to her hands, unto her said two daughters, the said *Elizabeth* and *Mary*, and all other her just debts and funeral expences, with a very considerable overplus; and your orator well hoped, that the said *W. B.* would not only have permitted your orator to enter upon and receive and take to his own use and benefit one moiety or half part of the rents and profits of the said leasehold premises, comprised in the said indenture of the 31st day of *March* 1705, and to which your orator's said wife became entitled immediately upon the death of the said *M. E.* her mother, but would also have paid your orator one moiety of the rents and profits thereof, received by him since the death of the said *M. E.* and would likewise have accounted with your orator for his said late wife's distributive

share of the several other leasehold messuages or tenements, which belonged to the said *J. E.* at the time of his death, and which were not comprised in, or included in the said indenture of the 31st day of *March* 1705, and for the rents and profits thereof, received by the said *M. E.* in her life-time, or by him the said *W. B.* since her death, and also for all other the personal estate of the said *J. E.* come to the hands or possession of the said *Mary E.* his widow and administratrix, and would have paid and satisfied your orator his share and proportion thereof, to which your orator is become intitled as administrator to his said wife, as in all justice and equity he ought to have done, your orator having divers times in a fair and friendly manner, both by himself and his friends or agents, and by letters otherwise applied to him for that purpose. But now so it is, may it please your Lordship, that the said *W. B.* combining and confederating to and with *Elizabeth B.* daughter and only child of the said *W. B.* by the said *Elizabeth* his wife, and with *J. C. F. G.* and *T. H.* the several tenants of the said leasehold messuages or tenements which belonged to the said *J. E.* and to and with divers other persons at present to your orator unknown, whose names when they shall be discovered, your orator prays may be inserted herein, and they made parties hereto, with apt matter and words to charge them, how to wrong and injure your orator in the premises, and to defeat your orator of his share and interest of and in the estate of the said *J. E.* and having prevailed on the said several tenants to attorn and pay their respective rents of the said intestate's said leasehold estates to him the said *W. B.* doth absolutely refuse to come to any manner of account with your orator for the said intestate's personal estate, or for the rents or profits of the said leasehold estates, or to pay your orator any part or share thereof, or to let your orator into possession of any part of the premises comprised in the said indenture of the 31st of *March* 1705, sometimes pretending, that the said *J. E.* never executed the said indenture, or any other deed or indenture, whereby he conveyed, limited, or disposed of any part of his leasehold estates, to, for, or upon such or the like uses, trusts, intents, or purposes, as are herein before mentioned, or in case he did, which the said confederates *W. B.* and *Elizabeth* his daughter sometimes admit to be true, yet they then pretend that such deed or settlement was not valid or binding as to the said *Mary* his widow, but that the notwithstanding the said settlement, on his death, became intituled, by virtue of the custom of the city of *London*, to one third part of his whole personal estate, and that only one third part thereof belonged to his said two daughters *Elizabeth* and *Mary*, equally between them; and that the other third part thereof was distributable equally amongst the said *Mary* the widow

dow, and the said *Elizabeth* and *Mary*, the two daughters of the said *J. E.* Whereas your orator doth charge and humbly insist, that the said settlement was legal, valid, and binding on the said *Mary E.* and that she the said *Mary E.* was thereby excluded from any benefit under the custom of the city of *London*, and that upon the death of the said *J. E.* the said *Elizabeth* and *Mary*, his two daughters, became entitled, by virtue of the custom of the city of *London*, to one moiety or half part of all his leasehold and other personal estate, not included in the said settlement, and the other moiety thereof ought to have been divided and distributed to and amongst the said *Mary E.* the widow, and the said *Elizabeth* and *Mary* the two daughters of the said intestate *J. E.* and that upon the death of the said *Mary E.* your orator's said wife became entitled to one moiety or half part of all and singular the premises comprised in the said settlement or deed of the 31<sup>st</sup> day of *March* 1705. But the said confederates do sometimes pretend and insist, that upon the death of the said *J. E.* she the said *Mary E.* became entitled to all his leasehold and other personal estate in her own right, and that she was not in any sort liable or accountable to her said daughters for any part or share thereof; but how, or by what means she became so entitled, they refuse to discover; and although at other times they admit that your orator's said wife was entitled to such share thereof as aforesaid, yet they then pretend that your orator, or his said wife in her life-time, received her share thereof, or full and ample satisfaction for the same, or that your orator or his said wife have possessed themselves of part of the personal estate of the said *J. E.* and *Mary E.* or one of them, of a greater amount or value than the share of your orator's said wife of and in his personal estate would amount unto; whereas your orator charges, and so the said confederates well know the truth to be, that your orator or his wife never did receive any part or share of the personal estate of the said *J. E.* or any satisfaction for the same; nor ever possessed themselves of any part of the personal estate of the said intestate *J. E.* or of the said *Mary* his widow, or either of them, *save only of some very small and inconsiderable part thereof, which your orator hereby offers and submits to account for.* And the said confederates do likewise pretend that the said *Mary E.* had full power to dispose of all and every part of the leasehold and other personal estate of her said late husband, who died intestate, in such manner as she hath taken upon herself to do, in and by her said pretended will, and insist that your orator ought not to seek any remedy or satisfaction for any share of his the said *J. E.*'s leasehold or other personal estates, in regard as they pretend, though very untruly, your orator hath submitted to the will of the said *Mary E.* and to accept the bequest thereby made in favour or for the benefit of your orator's said wife, in lieu or satisfaction of her share or interest in the said



intestate's estate; whereas your orator doth charge and humbly insist that the said *Mary E.* had no power whatsoever, either by will or otherwise, to dispose of the share or interest of your orator's said wife, of or in the estate of the said *J. E.* deceased, and that in case she did make such will as is herein before mentioned, or any other will, whereby she took upon herself to dispose of the estate of the said *J. E.* yet that your orator never acquiesced under the said will, nor submitted thereto; and therefore the same ought not in any sort to affect or prejudice your orator's right, title, interest, or claim, in or to the said intestate *J. E.*'s estate; all which the said confederates do sometimes admit, and that your orator is entitled to such share or interest in the said *J. E.*'s estate, as is herein before for that purpose mentioned and set forth; but then they the said confederates, and in particular the said *W. B.* doth pretend, that all the leasehold and other personal estate which the said *J. E.* died possessed of, interested in, or entitled unto, was but of a very small value, and not sufficient to pay all his just debts and funeral expences, or if the same was sufficient for that purpose, yet that there was but very little or no surplus remaining after payment thereof; and pretends that the said leasehold estates of the said *J. E.* were in mortgage at his death, for some considerable sum or sums of money; and that he the said *J. E.* was at his death indebted unto several persons his creditors in several considerable sums of money on judgments, bonds, bills, notes, or other securities, or otherwise, by simple contract: whereas your orator doth charge, that the said *J. E.* died possessed of, interested in, or intitled unto a very large personal estate, consisting of such leasehold houses and other particulars as aforesaid, all which afterwards came to the hands, custody, power or possession of the said *Mary E.* his widow and administratrix, or of some other person or persons in trust for her; and that there was not any mortgage or mortgages on any part of his said leasehold estate subsisting at the time of the death of the said *J. E.* and that the said *J. E.* died very little, if any thing, indebted to any person or persons whatsoever; and at other times the said *W. B.* doth admit that the said *J. E.* died possessed of such leasehold and other personal estate as aforesaid, and that the same afterwards came to the hands, custody, power or possession of the said *Mary E.* his widow and administratrix, and that the same was much more than sufficient to pay his debts and funeral expences; but then he pretends that the whole, or the greatest part thereof, had been spent and consumed by the said *Mary E.* in her life-time, and that she the said *Mary E.* did not leave assets sufficient to answer and make good the personal estate of the said *J. E.* come to her hands, or in case she did leave assets sufficient for that purpose, yet that the same hath not yet come

to

to his hands, custody, power, possession, or knowledge, or to the hands, custody, or possession of any other person or persons in trust for him, or by his order, or for his use; and likewise pretends that she the said *Mary E.* died greatly indebted unto several persons on mortgages, bonds, bills, and other specialties of a superior nature to your orator's demands, and more than her personal estate come to his hands will be sufficient to answer and pay. Whereas your orator charges the truth to be, that the said *Mary E.* died possessed of, interested in, or entitled unto a very considerable personal estate, and more than sufficient to answer and make good the personal estate of her said late husband come to her hands, and to pay and satisfy all other her just debts and funeral expences, all, or the greatest part whereof hath since come to the hands, custody, or possession of the said *W. B.*; and your orator doth further shew and charge, that your orator during the life-time of the said *Mary E.* and by her order or direction, or by and with her privity and consent, did and performed divers repairs in and about the said leasehold messuages or tenements, which belonged to the said *J. E.* at his death, upon which account there became and still remains due to your orator the sum of            or thereabouts, for which the said *W. B.* absolutely refuses to pay your orator, or to make him any satisfaction for the same, although your orator hath frequently applied to him for that purpose, and the said *J. C. &c.* the tenants of the said intestate's said leasehold estate, persist in paying their rents for the said premises unto the said *W. B.* and refuse to pay any part thereof to your orator, although your orator hath frequently applied to them for that purpose; all which actings, doings, and pretences of the said confederates are contrary to all right, equity, and good conscience, and tend to the manifest wrong and injury of your orator. **In tender consideration whereof,** and forasmuch as your orator is utterly remediless in the premises in and by the strict rules of common law, your orator's witnesses who could prove the truth of all and singular the premises being either dead, or gone into parts remote beyond the seas, and to your orator unknown, so that your orator cannot have any benefit of their testimony at any trial to be had at common law, nor can have any relief in the premises, save in a court of equity before your Lordship, where matters of this nature are properly cognizable and relievable; **To the end therefore** that the said confederates may, upon their several and respective corporal oaths, full, true, direct, and perfect answer make to all and singular the premises, as fully and particularly as if the same were herein repeated, and they thereunto again interrogated; and more especially that they may set forth and discover, whether as they know, believe, or have heard, the said *J. E.* did not execute such indenture as is  
herein

herein before mentioned to bear date the 31st day of *March* 1705, of such purport or effect, or for such purposes as before mentioned, or of any other and what date, purport, or effect; and whether he the said *J. E.* did not die intestate at or about the time herein before mentioned, or at any other time, and when, and what issue he had living at the time of his death; and whether he was not at the time of his death possessed of, interested in, and entitled unto such leasehold messuages or tenements, and other personal estate, consisting of such particulars as are herein before mentioned, or of any other and what leasehold messuages or tenements, and other personal estate, and of what particulars the same consisted; and whether letters of administration of the said *J. E.*'s personal estate were not at any time, and when, granted by any and what ecclesiastical court, unto the said *Mary E.* his widow, or to any other person, and whom; and whether she the said *Mary E.* did not, by virtue of the said indenture of the 31st day of *March* 1705, and of the said letters of administration, or how otherwise, possess herself of the whole leasehold messuages or tenements, and other personal estate of the said *J. E.* or of any, and what part or parts thereof; and whether she, or any, and what other person or persons, for or on her behalf, did not continue in the possession and receipt of the rents and profits of the said leasehold premises and other personal estate of the said intestate *J. E.* until the time of her death; and whether any and what inventory or account of the said intestate's personal estate was at any time, and when, made or taken, and whether the same or any, and what inventory or account thereof was ever exhibited into any and what ecclesiastical court, or into the common serjeant's office of the city of *London*, and by whom, and when; and may set forth why such inventory or account was not so made, taken, or exhibited, as they know or believe; and may set forth what debts the said *J. E.* owed at his death, and to whom, and for what, and how, or in what manner secured; and whether the same or any and what part thereof hath been since paid or satisfied, and when, by whom, and to whom in particular; and whether, as they know or believe, the said *Mary* your orator's said late wife did not, upon the death of the said *J. E.* her father, become entitled to such distributive share of his personal estate, as is herein before mentioned in manner as aforesaid, or to any other, and what part or share thereof, and how or in what manner, and whether any distribution was at any time, and when, made of any and what part of the said intestate *J. E.*'s personal estate, and when, by whom, and to whom, and for what reason the same was not so done; and may also set forth when the said *Mary E.* died, and whether she did not make such will and codicil as herein before set forth, or any



any other, and what will or codicil, and whether letters of administration with the said will annexed, were not afterwards duly granted by the prerogative court of the Archbishop of *Canterbury* unto the said *Mary* your orator's said late wife, and whether your orator's said wife did not depart this life, at or about the time herein before for that purpose mentioned, or at any other time, and when, and whether she did not die intestate, and without leaving any issue living at the time of her death, and whether your orator hath not procured letters of administration of her personal estate to be granted to him, by and out of the prerogative court of the Archbishop of *Canterbury*, or how otherwise, and whether by virtue thereof, or how otherwise, your orator is not become entitled to his said late wife's share and interest of and in the personal estate of the said intestate *J. E.* and whether your orator hath not procured letters of administration of the goods and chattels of the said intestate *J. E.* unadministered by the said *Mary*, your orator's said late wife, to be granted unto your orator, by and out of the prerogative court of the Archbishop of *Canterbury*, or by and out of any and what other ecclesiastical court; and whether he the said *W. B.* did not intermarry with *Elizabeth*, one of the daughters of the said *J. E.* and whether she the said *Elizabeth* did not depart this life at or about the time herein before for that purpose mentioned, or at any other time, and when in particular, and whether she did not leave issue living at the time of her death, only one daughter, to wit, the said *Elizabeth B.* or any other, and what issue, and whether she the said *Elizabeth*, the wife of the said *W. B.* did not die intestate, or how otherwise, and who is or are her representative or representatives, and whether he the said *W. B.* hath not procured letters of administration of the goods, chattels, and personal estate of the said *Mary E.* unadministered by the said *Mary*, your orator's said late wife, to be granted to him, by and out of the prerogative court of the Archbishop of *Canterbury*, or by and out of any other and what ecclesiastical court; and whether by virtue thereof, or how otherwise, he hath not entered upon and possessed himself of the several leasehold messuages or tenements, which belonged to the said *J. E.* at the time of his death, and whether he hath not received the rents, issues, and profits thereof, and of all other personal estate of the said *Mary Edwards*, or of the greatest, or any, and what part thereof; and may set forth a particular account and rental of the several leasehold messuages or tenements which belonged to the said *J. E.* at the time of his death, and who then was, or were, and ever since have, or hath been the tenant or tenants thereof, and at or under what yearly or other rents, the same, or any part thereof, have or hath been at any time, and when, since the death of the said *J. E.* let, and to whom in particular,

particular, and what is the full and real value thereof in the whole, as they severally know or believe; and that the said *W. B.* may either admit assents of the said *Mary E.* come to his hands, sufficient to pay and satisfy your orator his share of the personal estate of the said *J. E.* which came to the hands of the said *Mary E.* or otherwise, that he may set forth a full, true, and just account of all and singular the goods, chattels, rights, credits, effects, and personal estate, which the said *Mary E.* died any way possessed of, interested in, or entitled unto, with the particular natures, kinds, quantities, qualities, true and real values thereof, and of each particular part or parts thereof, which have at any time come to the hands, custody, power, possession, or knowledge of the said *W. B.* or to the hands, custody, power, or possession of any other person or persons, and of whom by name, in trust for him, or by and with his direction, assent, consent, privity, or procurement; and how, by whom, to whom, when, and for how much money, the same and every part, parcel, and particular thereof hath been sold or disposed of, and whether for the true and real value thereof, or for as much as could be got for the same, or how otherwise, and what is become thereof, and of every part and parcel thereof; and what debt or debts or sums of money were due or owing to the said *Mary E.* at her death, from any person or persons, and from whom by name, and upon what securities, or how otherwise, and how much he hath got in or received on account thereof, and from whom, and when, and may also set forth what debts the said *Mary E.* really owed at the time of her death, and to whom, and upon what security or securities, and when made, given, and executed, and for what consideration really paid, and by whom, and to whom, and when in particular, and how much she hath really paid on account thereof, and to whom, when, where, and in whose presence; and whether your orator hath not at any time or times, and when, and how often applied to the said *W. B.* to let your orator into possession of, and to permit him to receive and take, one moiety or half part of the rents and profits of the said leasehold premises, comprised in the said indenture of the 31st day of *March 1705*, and to pay your orator one moiety of the rents and profits thereof, received by the said *W. B.* and also to account with your orator for the personal estate of the said intestate *J. E.* and to pay your orator his share thereof; and whether he hath not refused so to do, and for what reason; and whether your orator did not during the life-time of the said *Mary E.* do and perform, or cause to be done and performed, any and what repairs, on any, and what part of the leasehold estate, late of the said *J. E.* and whether, as they know or believe, there did not remain due to your orator for the same, at the time of the death of the said *Mary E.* such sum of money

money as is herein before mentioned, or any or what sum of money, and whether the same doth not still remain due and owing to your orator, and whether the said several tenants do not still continue to pay their respective rents unto the said *W. B.* or unto any other person, and whom, and whether they have not respectively refused to pay the same, or any part thereof to your orator; and that your orator may be let into possession and have quiet enjoyment of one moiety of the leasehold premises, comprised in the said indenture of the 31st of *March* 1705, and that the said *W. B.* may account with and pay your orator one moiety of the rents and profits thereof, accrued due and received by him since the death of the said *Mary E.* and that he may be compelled to come to a fair and just account with your orator for the personal estate of the said intestate *J. E.* which came to the hands, custody, power, or possession of the said *Mary E.* his widow and administratrix, or to the hands, custody, power, or possession of any other person or persons *in trust* for her, and may pay your orator his distributive share thereof; and that your orator may be paid the said sum of \_\_\_\_\_ for the repairs of the said premises, and that in the mean time, and until the said account be taken, a receiver may be appointed to receive the rents and profits of the leasehold estates of the said intestate *J. E.* and that your orator may have such further and other relief in all and singular the premises, as shall be agreeable to equity and good conscience, and as to your Lordship shall seem meet. May it please, &c.

*A Bill for Relief against a Release obtained in consequence of a Promise of Marriage.*

*To the Right Honourable Edward Lord Thurlow, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *C. H.* of, &c. spinster, that one *W. E.* of, &c. Gentleman, did, for three or four years last past, make his addresses to your oratrix, by way of courtship in marriage, and the said *W. E.* having made several solemn assurances and promises of his sincerity and affection to and for your oratrix, so far prevailed upon your oratrix as to gain her consent to such marriage and your oratrix sheweth, that she, relying upon the fidelity and honour of the said *W. E.* was also prevailed upon by him to advance, lend, and pay at several times during the said courtship to him the said *W. E.* or to his use, divers sums of money to the amount of 1000*l.* and upwards; and also, during the time of the said courtship, your oratrix was prevailed upon by the said *E.*

to



to supply and furnish him with, at, and upon her own expence and credit, sundry sorts of goods, such as holland, cambric, silk stockings, and divers other kinds, to the amount or value of 100 *l.* and upwards; and the said *W. E.* still prosecuting his courtship, and continuing to make great professions of respect and kindness to your oratrix, requested your oratrix to give him a release and discharge for the sums of money and goods so advanced and delivered as aforesaid, insinuating, at the same time, that as he the said *W. E.* and your oratrix were soon to become man and wife, it would be of little or no use or avail to her to have the aforesaid debt to your oratrix standing out against him; and your oratrix, putting an entire confidence in the sincerity and honour of the said *W. E.* and not doubting but he had a real intention to marry your oratrix, did, upon the motives aforesaid, comply with the said request, and actually did set her hand to some paper writing of the said *W. E.*'s drawing or procuring, importing, as your oratrix believes (but what in particular your oratrix cannot exactly remember or set forth), some acquittance or discharge for the said several sums of money so advanced and delivered by your oratrix, though at the same time, as your oratrix expressly charges, there was not one farthing of money or other valuable consideration ever paid or offered to be paid by the said *W. E.* to your oratrix, upon the account of or for any of the matters aforesaid; and your oratrix further sheweth unto your Lordship, that some time after her signing the paper or writing above mentioned, your oratrix found, to her great surprise, that the said *W. E.* declined to marry your oratrix, and that he never had any real intention so to do; whereupon your oratrix made frequent application by her agents and friends to him the said *W. E.* for repayment of the said several sums of money lent and advanced by your oratrix as aforesaid, as also for a satisfaction for the said goods. **But now so it is,** may it please your Lordship, that the said *W. E.* combining and confederating himself to and with divers persons unknown to your oratrix, whose names, when discovered, your oratrix prays may be inserted in this her bill, with apt words to charge them, how to defraud and defeat your oratrix of the said several sums of money and goods, doth absolutely refuse to make your oratrix any the least satisfaction for the same; and whenever the said *W. E.* hath been charged with the receipt of the said money and goods, he sometimes would deny the same, and sometimes gave, and still doth give, doubtful and ambiguous answers thereto, on purpose to avoid any evidence being given against him, upon his confession or admission; and this being a transaction in secret between your oratrix and the said *W. E.* and no other person or persons privy either to the loan of the said money or delivery of the

the goods, he doth upon that account put your oratrix to defiance touching the premises; and sometimes the said *W. E.* pretends and insists, that in case the said money and goods were really and *bona fide* advanced, paid, and delivered as herein before set forth, yet your oratrix hath now no pretence or foundation to make any demands upon him in respect either of the said goods or money, for that, as he insists, your oratrix hath given him an absolute release and discharge for the same; and that such release will be a bar to any right or demands your oratrix can set up upon that account; and at other times the said *W. E.* pretends he never made courtship to your oratrix as aforesaid, or ever intended to marry your oratrix, or ever made any promises or assurances so to do. Whereas your oratrix doth charge, as the truth really is, that the said *W. E.* did make such courtship and promises of marriage to your oratrix as herein before are mentioned, and that the same was so done only to get what money, goods, and effects from your oratrix he could defraud your oratrix of, under such specious colours and pretences. And your oratrix also charges, that the said promises of marriage made by the said *W. E.* to your oratrix, were the only motive and inducement to your oratrix, to lend and supply him the said *W. E.* with the said money and goods which she did actually advance and deliver to him, as also to her signing and giving such release or receipt as the said *W. E.* insists upon; and therefore your oratrix humbly hopes and is advised, if any such release there be, the same in a court of equity shall be no bar to your oratrix's said demands, but be deemed and taken to be fraudulent and void in itself: All which actings, pretences, and doings of him the said *W. E.* and other the confederates tend to the manifest wrong and injury of your oratrix. **In tender consideration** whereof, and for that your oratrix is utterly remediless in the premises at the common law, and the same being a transaction only between your oratrix and the said *W. E.* and no person or persons privy to the same, so as to be able to bear testimony thereof, your oratrix can have relief only in this court by a discovery of the truth of the said premises, upon the oath of him the said *W. E.* and for that matters of fraud are properly cognizable and examinable before your Lordship. **To the end** therefore, the said *W. E.* and other the confederates when discovered, may true, full, and perfect answer make to all and singular the premises, as if the same were herein again more fully interrogated and repeated, and more especially that the said *W. E.* may distinctly answer hereto, not only to his knowledge, but to the best of his belief, and may set forth, whether he did not make such or any, and what other addresses and courtship to your oratrix as aforesaid, or pretended so to do, and made  
any,

any, and what promises or assurances to marry your oratrix, or whether he did not endeavour to make your oratrix so to believe, and whether during the said courtship, or at any other time or times, and when your oratrix did not supply and advance, lend, or pay to him the said *W. E.* several and what sum or sums of money at several and what time or times in particular, as he knows or believes, to the amount of 1000*l.* and upwards, or to what other value, or whether your oratrix did not deliver, or cause to be delivered the goods herein before mentioned, or what other, and to what value, to him the said *W. E.* and who paid for or is answerable for such goods, and what was the true or real motive or inducement of your oratrix's advancing or delivering the said money or goods, and whether your oratrix hath given any, and what release, acquittance, or discharge for the said money or goods, and when, and before whom, and by what arts, persuasions, and insinuations, your oratrix was prevailed upon to lend and procure such money and goods, or to give such release and discharge for the same, and whether at the time of giving such pretended release, or at any other time, and when, he paid any, and what sum of money, or made your oratrix any, and what satisfaction in respect of the said money or goods, or ever paid any valuable consideration for the same, and why he refuses so to do, and whether he insists upon such release and discharge, and may set forth the same in *hæc verba*, and who drew or procured the same, and are witnesses thereto, and whether any person or persons, and who by name, was or were privy to the loan of the said money, or delivery of the said goods, or to any part thereof, or to your oratrix's giving or signing such pretended discharge or release as aforesaid, and whether your oratrix was made acquainted with the true meaning and import of the same; and that the said *W. E.* may be compelled by a decree of this honourable court to account to your oratrix, and make her satisfaction for the said money and goods, together with interest respectively for the same, from the time the same were advanced and delivered as aforesaid, and that the said discharge or release (if any such there be) may be set aside and delivered up by the said *W. E.* to your oratrix to be cancelled, and that your oratrix may have such further relief in the premises as to your Lordship may seem meet and proper, according to equity and good conscience. May it please your Lordship to grant to your oratrix his Majesty's most gracious writ or writs of *subpœna*, to be directed to the said *W. E.* thereby commanding him at a certain day, and under a certain pain therein to be limited, personally to be and appear before your Lordship in this honourable court, then and there to answer all and singular the premises, and further to stand to and abide such further order and decree as to your Lordship shall seem meet. And your oratrix shall ever pray, &c.



*An Information by the Attorney General, at the Relation of the Rector and Churchwardens, for Money given to charitable Uses.*

*To the Right Honourable, &c.*

**I**NFORMING, sheweth unto your Lordship, *J. W.* Esq. his Majesty's attorney general, at and by the relation of *G. W.* clerk, rector of the parish of *R.* in the county of *S.* and of *W. P.* and *G. E.* churchwardens of the same parish, on behalf of themselves and the rest of the parishioners and inhabitants of the same parish, That *H. F.* late of *W.* in the said county of *S. Bart.* deceased, in his life-time, and at the time of his death, was seised in fee-simple of and in divers manors, messuages, farms, lands, tenements, and hereditaments, situate and being within the county of *K.* and the several counties of *K. E.* and *S.* or some of them, or elsewhere within that part of *Great Britain* called *England*, and the said Sir *H. F.* was also possessed of, interested in, or intitled to a very considerable personal estate; and being minded to dispose of great part of his estate for several charitable purposes, he the said Sir *H. F.* did some time before his death duly make and publish his last will and testament in writing, bearing date the ——— day of ——— in the year of our Lord ———, and did thereby nominate and appoint Sir *W. T. Bart. C. S. A.* Esq; the Rev. Mr. *A. D., T. G.* and *C. W.* of ———, Esq; his executors, in trust for the performance of his said will, and thereby gave and devised all, &c. [*Here recite the devises in the will*] as by the said will, could his Majesty's attorney general or the said relators produce the same, might more fully appear. And his Majesty's said attorney general by the relation aforesaid further sheweth, that the said will of the said Sir *H. F.* was duly signed, sealed, published, and declared by the said testator as and for his last will and testament, in the presence of and attested by, three credible witnesses; and the said testator, at the time of the date and execution of the said will, was of sound and perfect memory and understanding; and he the said testator on or about the ——— day of ——— now last past departed this life without issue, and without altering or revoking his said will, and was at the time of his death possessed of, interested in, or intitled to, a very great and considerable real and personal estate; which personal estate amounted to the value of ——— and upwards, and was sufficient to pay and satisfy all his debts and legacies, and funeral expences, with a great overplus. And his Majesty's said attorney general by the relation aforesaid further sheweth, that soon after the

said testator's death the said executors and trustees proved the said will in the prerogative court of *Canterbury*, and have taken upon themselves the burthen and execution thereof, and have possessed themselves of all or the greatest part of the goods, chattels, and personal estate of their said testator, and ought to exhibit a true and perfect inventory and particular thereof, and also an account in what manner they have paid, administered, disposed of or applied the same, and to whom, and in payment of what debts and legacies; and they the said trustees and executors ought also with all convenient speed to build, erect, and endow the said church or chapel and charity school, according to the direction of the said will, and in all other things to perform and execute the pious and charitable intentions and directions of the said testator, according to the true intent and meaning of his said will. But now so it is, may it please your Lordship, that the said executors and trustees *Sir W. T., C. S., A. T. J., and C. W.* combining and confederating with *F. J.* and *M.* and also with *G. T.* the younger, and *H. T.* of *J.* in the county of ———, *G. T.* of, *Es.* and *R. T.* of, *Es.* and *S. K.* of, *Es.* who are the cousins and heirs at law of the said testator *Sir H. F.* the said *G. T.* the younger, and *H. T.* being the only sons and heirs in gavelkind of *H. T.* Esq. deceased, who was the eldest son and one of the coheirs in gavelkind, and the said *G. T.* and *R. T.* being the youngest sons and the other coheirs in gavelkind of *E. T.* deceased, late wife of *H. T.* of *J.* aforesaid, Esq. and the surviving daughter of *E. L.* also deceased, late wife of *W. L.* Esq. deceased, only sister and heir of *A. L.* son and heir of the said *E. L.* which said *E. L.* was one of the two sisters of *W. F.* the elder, late of *W.* aforesaid, deceased, late father of the said *Sir H. F.* and the said *S. K.* the only surviving daughter and heir of *M. S.* late wife of *K. S.* late of *E. G.* in the parish of *S.* in the county of *K.* gent. deceased, which said *E. S.* was the other sister of the said *W. F.* the elder; and the said *J. B.* only daughter and heir of *M. B.* deceased, late wife of *C. B.* Esq. who was the only daughter and heir of *W. F.* the younger, deceased, who was the eldest son of the said *W. F.* the elder by ——— his first wife, and brother of the half blood of the said testator, together with divers other persons unknown to his Majesty's said attorney general or the said relators, whose names, when discovered, his Majesty's said attorney general prays may be inserted in this information, and they made parties to the same with apt words to charge them; they the said executors pretend and give out in speeches sometimes, that the said testator did not leave assets sufficient to pay all his just debts, legacies, and funeral expences, and also to make good the said several charities and charitable donations given and directed in and by his said

said will; whereas his Majesty's attorney general charges, that the said testator died possessed of a very considerable personal estate, which, if rightly applied, and duly improved, will be much more than sufficient to satisfy all the testator's debts, legacies and funeral expences; and particularly his Majesty's attorney general charges, that the said executors, or some of them, were indebted upon bond or otherwise to the said testator at his death in very great sums of money, which ought to be paid in and applied towards payment of the said testator's debts and legacies; but they refuse or neglect to pay in the said debts, and such of them as are so indebted sometimes give out, that their debts are extinguished by the said testator having made them executors of his will, and that they are not now liable to the payment thereof; whereas they well know, and so his Majesty's attorney general and the said relators insist, that the said executors are only appointed executors in trust for the performance of the testator's will, and that it never was the testator's intention, by making them executors, to extinguish any debt or debts which any of them might owe him at the time of his death, and that he or they should retain the same to their own uses, nor is there any colour for them to set up any such pretence; and as to the pretence, that the said testator's personal estate is not sufficient to satisfy all his debts, legacies, and funeral expences, his Majesty's attorney general and the said relators do also insist, that in case there shall appear to be any such deficiency of the said testator's personal estate, the same ought to be made good out of his real estate, he having by his said will expressly devised all manors, lands and real estate whatsoever, to his said executors and trustees, and their heirs, to the uses and upon the trusts mentioned in his said will, and thereby, as his Majesty's attorney general and the relators insist, he has subjected all his said real estate to the payment of his said legacies, and particularly of the said charities; but then it is pretended by the said *G. T.* the younger, and *H. T.* the grandsons, *G. T.*, *R. T.* and *S. K.* the heirs at law, that the said testator's real estate is descended upon them, and that the said will was not duly executed, as by law it ought to be, for the devising of lands and tenements, or at least that it will be incumbent upon his Majesty's attorney general, and the said relators, to make due proof of the execution thereof; at other times it is pretended by the said executors, that the said testator having by his said will directed, that his trustees should not apply any money arising from his estates given to his said charities in the said parish of *R.* either to a minister, school-master, or poor children, until seven years were expired after his decease, his Majesty's attorney general and the said relators ought not to make any demands upon them the executors until after the expiration



of the said seven years; whereas the said executors well know, that the said testator has declared his will to be, that his trustees might at any time after his decease erect and build the said church or chapel, and school house, or either of them; and therefore they the said executors ought, as soon as may be, to purchase a proper peice of ground, whereon to erect the said church or chapel, and to set about the building the same with all convenient speed; and they ought to come to an account for the said testator's personal estate, and a sufficient part thereof ought to be appropriated and set apart for answering and making good the said testator's other charities, when the said seven years shall be expired, and so the said executors sometimes admit; but then they pretend they are unwilling to act in any matter relating to the said charities without the direction and indemnity of the decree of this honourable court; and the said *F. J.* and *M.* his wife, do also insist, that in regard the said testator having by his said will directed, that his executors and trustees shall maintain and keep up his gardens belonging to his said capital messuage at *S.* they the said executors ought out of the said testator's personal estate to pay and expend what the said *F. J.* and his wife shall think fit to lay out and expend from time to time in and about the said gardens and paddock; whereas the said testator has only directed, that 20 *l.* a year shall be paid to the said *J. C.* the testator's gardener, for looking after the said garden and paddock, and no greater sum ought to be paid by the said trustees for keeping up the said gardens, than the said 20 *l.* a year, and such yearly sum his Majesty's attorney general and the relators insist ought to be paid out of that part of the said testator's real estate, which is devised to the said *M. J.*; but the said *F. J.* and his wife insist, that the charges of keeping up the said gardens shall be paid out of the said testator's personal estate, and not out of any part of his real estate devised to her, to the great prejudice and diminution of the said charities. **In consideration whereof,** and forasmuch as charitable bequests and donations can only be effectually established and specifically carried into execution by the aid and assistance of a court of equity; **To the end therefore,** that the said confederates may, upon their respective corporal oaths, true and perfect answer make to all and singular the premises, as fully and distinctly as if the same were here again particularly repeated and interrogated, and especially may set forth and discover, as they respectively know or believe, whether the said Sir *H. F.* did not make his last will and testament in writing, and thereby make such devises or to such effect as are herein before set forth; and whether the said will was not duly executed by the said Sir *H. F.* in the presence of, and attested by, three credible witnesses, and who by name;  
and

and may set forth the same in the very words thereof; and whether the said Sir *H. F.* did not die without issue, and when he died; and that the said defendants, the trustees and executors, may set forth a particular of all the manors, messuages, lands, tenements, and hereditaments, which the said testator was any ways intitled to at the time of his death; and what estate or interest he had therein, and the yearly values thereof, and where the same are respectively situate, lying and being; and whether they have not proved the said testator's will, and taken upon themselves the burthen and execution thereof; and that they may set forth a true inventory and particular of all the goods, chattels and personal estate not specifically devised, whereof the said testator was possessed, interested in, or intitled unto at the time of his death, and the true values thereof, and what part thereof hath come to the possession of them the said executors or either of them, or of any other person or persons for their or either of their use; and how and in what manner, and in payment of what debts or legacies, and to whom, the same or any and what part or parts thereof, hath been paid, applied, disposed of or administered; and whether the same is not sufficient fully to discharge and satisfy all his just debts and legacies, and funeral expences, and also the said charitable bequests and donations in the said will; and that they may also set forth, whether they or some, and which of them, were not indebted to the testator at the time of his death in any and what sums of money, and how the same were secured; and that the said *F. J.* and *M.* his wife may set forth the yearly value of the said messuages, lands and tenements devised to her the said *M.* by the said testator's will, and that the said executors may come to an account for the said testator's personal estate, and may thereout pay the said legacy of 50 *l.* bequeathed to the said parish of *R.* to the churchwardens and overseers of the poor of the same parish for the purposes in the said will mentioned concerning the same; and that the said executors may also lay out and apply the sum of 1500 *l.* in the erecting and building a chapel or church and a charity-school in or near *C.* and *A.* aforesaid, according to the said testator's will, and in purchasing a proper piece of ground whereon to build the same; and may also invest and lay out the several sums of 4000 *l.* 500 *l.* and 3000 *l.* in the purchase of lands of inheritance, according to the testator's will, for the several purposes therein mentioned; and that in the mean time the said several sums, and all the rest of the said testator's personal estate not specifically devised, over and above what shall be sufficient to pay and satisfy all the testator's debts, legacies, and funeral expences, may be placed out upon good securities at interest, for the augmentation of the said charities, and that the witnesses to the said will may be examined,

amined, and their testimony perpetuated; and that the said several charities and charitable donations may be settled and established, and all the trusts in the said testator's will be fully performed and carried into execution, according to the true intent and meaning of the said will; and that such further and other relief may be had and obtained in the premises, as to your Lordship shall seem agreeable to equity and good conscience; May it please your Lordship, &c.

*Another Information by the Attorney General for Money given to charitable Uses.*

*To the Right Honourable, &c.*

**I**NFORMING, sheweth unto your Lordship, Sir — Knight, his Majesty's Attorney General, at and by the relation of *F. W.* clerk, vicar of the parish of — in the county of —, and *J. B.* and *J. C.* churchwardens of the same parish, for and on the behalf of, &c. (as in the last information, p. 369) That *W. B.* late of — in the said county of — Esq. deceased, being in his life-time possessed of a considerable estate, did on or about the — day of —, which was in the year of our Lord 17 —, duly make and publish his last will and testament in writing, and thereby (among other things) gave and bequeathed the sum of 500 *l.* to be raised out of his personal estate, and directed that the same sum (when raised) should be paid unto *T. W.* of, &c. and *J. B.* of, &c. their executors and administrators on trust to be by them the said *T. W.* and *J. B.* their executors or administrators (with all convenient speed) laid out, part in building of a small school-house in the village of — in the parish aforesaid, together with a little house adjoining thereto, for a school-master to live in, and directed that the purchase of the said ground and building should not exceed the sum of 200 *l.* and that the remaining 300 *l.* should be laid out in the purchase of land or some real security, to be a maintenance and provision for the master of the said intended school, and the building of the said school and school-house for the master, and also the placing out of the said 300 *l.* for the maintenance of the said master as aforesaid, was to be done by the advice and assistance of the proprietor of *L.* and the vicar and churchwardens of the said parish of — for the time being, or any two of them, the proprietor of *L.* or the vicar of the said — to be one; in which school the said testator directed, that so many boys of poor farmers, labourers, and craftsmen, of the said village and parish of — aforesaid, should be taught to read



read and write, and to continue so long at or in the said school, as the said proprietor of *L.* the vicar and churchwardens of the said parish of ——— or any two of them for the time being, should under their hands direct or appoint; and the said testator also directed, that the said schoolmaster should be chosen by the majority of the vestry of the said parish, the said master having been first examined and approved of, by the vicar of the said parish of ——— for the time being, as a proper person to be chosen master of the said school, and that upon any misdemeanor of the master of the said school, the vestry of the said parish of ——— should be called (the vicar and the churchwardens of the same parish for the time being, or any two of them, to be present) to examine into the same; and in case the master of the said school should be found guilty of any misdemeanor relating to the said school, that then the majority of the vestry of the said parish of ——— (the proprietor of *L.* and the vicar and churchwardens of the same parish of ——— for the time being, or any two of them, being present) should proceed to remove and displace the said master from the said school, and should proceed to elect and nominate (in the manner aforesaid) another master to succeed him so removed and displaced; and his Majesty's attorney general, by the relation aforesaid, further sheweth unto your Lordship, that the said testator did in and by his said will give to the poor of ——— the sum of 100 *l.* to be raised out of his personal estate, and to the poor of the parish of ——— the sum of 100 *l.* to be also raised out of his personal estate, whereof 100 *l.* was to be paid by *E. B.* (the said testator's executrix, and a defendant herein after named) to the churchwardens for the time being, of the respective parishes of ——— and ——— to be by them the same churchwardens (by and with the consent of the minister and vicar of each parish for the time being) placed out at interest; and the said testator did by his said will direct, that the minister and vicar and churchwardens of the said respective parishes of ——— and ——— or any two of them (the minister and vicar of each parish to be one) should distribute yearly, two days before *Christmas-day*, the produce and interest that should arise from the said 100 *l.* among ten of such indigent and labouring families of each of the said parishes of ——— and ——— as they shall judge to be most wanting of it; and of his said will the said testator appointed his wife *E. B.* executrix; and his Majesty's attorney general, &c. sheweth unto your Lordship, that the said *W. B.* by a codicil to his said will, bearing date the ——— day of ——— 17 —, appointed *L. R.* of, &c. a trustee for the purposes in his said will mentioned, together with *T. W.* and *J. B.* the other trustees in the said will named, as by the said will and codicil, could his Majesty's attorney general

neral or the relators produce the same, might more fully appear; and his Majesty's attorney general, &c. further sheweth unto your Lordship, that the said *W. B.* at the time of the date and execution of the said will, was of sound mind, memory, and understanding, and that the said *W. B.* some time after making his will and codicil as aforesaid (*viz.*) on or about the day of — in the year of our Lord 17 departed this life without revoking or altering his said will (save only as to the nomination of the said *L. R.* to be a trustee as aforesaid), and that upon the death of the said testator, the said *E. B.* proved the same in, &c. and took upon her the burthen of the execution thereof; and his Majesty's attorney general at, &c. further sheweth unto your Lordship, that the said *W. B.* at the time of his death was possessed of, and intitled unto a considerable personal estate, consisting of leasehold messuages, &c. to the amount of *l.* or to some other considerable amount sufficient to pay and satisfy all his just debts, legacies, and funeral expences with a great overplus; and his Majesty's attorney general at, &c. further sheweth unto your Lordship, that the said *E. B.* after the death of the said *W. B.* not only got into her hands, custody or power, all or the greatest part of his personal estate, sufficient to pay all his debts, legacies, and funeral expences, with a considerable overplus, but also entered upon his freehold estate called *L.* and is the proprietor thereof for the time being, and the said *F. W.* &c. (all the relators) have oftentimes in a friendly manner applied to the said *E. B.* to pay to the said *L. R.* &c. (the trustees) the said 500 *l.* to be by them applied to the purposes mentioned in the said will of the said *W. B.* and to assist them in carrying the charitable purposes of the said testator into execution; and his Majesty's attorney general at, &c. further sheweth unto your Lordship, that the said *F. W.* &c. (the relators) have oftentimes applied to the said *E. B.* to pay to them the said 100 *l.* so directed by the said testator's will to be paid to them as aforesaid, in order to apply the same according to the said testator's will, but the said *E. B.* always refused and still refuses so to do, and the said *L. R.* &c. (the trustees) refuse to act in the said trust reposed in them in and by the said will, although often applied to by the said *F. W.* &c. (the relators) for that purpose; ~~But~~ *now so it is,* may it please your Lordship, that the said *E. B.* &c. combining and confederating to and with divers persons, to his Majesty's said attorney general or the said relators unknown, whose names, when discovered, his Majesty's said attorney general prays may be inserted in this information, with apt words to charge them, the said *E. B.* &c. now pretend and give out that, &c. [*Here go on with the charge*] All which actings, doings and pretences of the said *E. B.* &c. and their confederates are contrary to all right, equity and good conscience, and tend to

to the great prejudice and diminution of the said charities ;  
**In consideration whereof**, and forasmuch as charitable bequests  
and donations can only be effectually established, and specifically  
carried into execution, by the aid and assistance of a court of  
equity : **To the end therefore** that the said *E. B. &c.* (and their  
confederates) as discovered, may upon their several corporal oaths  
true and perfect answer make to all and singular the premises,  
as if the same were here again repeated and interrogated, and  
more especially, that the said *E. B. &c.* may set forth and dis-  
cover (as they respectively know or believe) whether the said  
testator did not make such will and codicil in writing of such  
dates as aforesaid, and thereby make such devises or to such  
effect as are herein before set forth, and whether the said *W. B.*  
did not depart this life without revoking his said will and codicil  
and whether the said *W. B.* did not appoint the said *D. B.* sole  
executrix of the said will, and whether she hath not proved the  
same, and in what court, and if she did not possess herself of  
the said testator's personal estate, and whether the same was not  
more than sufficient to pay all the testator's just debts, legacies  
and funeral expences, and whether she is not proprietor and  
owner of *L.* and that the said *E. B.* may admit assets sufficient  
to pay the said charitable legacies, and that the said trusts in the  
said will relating to the said charities may be carried into exe-  
cution, under the directions of this honourable court, and that  
the said *L. R. &c.* (the trustees) may act in, or assign their  
trust, and that the said *E. B.* may pay to them, or to such  
persons as this honourable court shall direct, the said 500*l.* and  
interest for the same from the time she last paid the same, to be  
applied to the charitable purposes mentioned in the will of the  
said *W. B.* and also may pay to the said *J. B.* and *J. C.* the  
present churchwardens of the said parish of ——— the said  
100*l.* and interest for the same from the time she the said *E. B.*  
last paid the same, to be applied to the said charitable purposes  
mentioned in the said *W. B.*'s said will, and that such further  
and other relief may be had and obtained in the premises, as to  
your Lordship shall seem agreeable to equity and good conscience.  
May it please, &c.



*The Answer of the Executrix to the last Information, wherein she insisted upon the Stat. of the 9 Geo. 2. intitled an Act to restrain the Dispositions of Lands, whereby the same became unalienable.*

*The Answer of E. B. Widow, one of the Defendants, to the Information exhibited by or in the Name of ——— his Majesty's Attorney General, by and at the Relation of F. W. Clerk, Vicar, &c. and J. B. and J. C. Churchwardens, of, &c.*

**T**HIS defendant, saving and reserving to herself, now and at all times hereafter, all and all manner of benefit and advantage of exception to the insufficiencies, uncertainties and other imperfections and defects of the said information for answer thereunto, or unto so much thereof as this defendant is advised is any ways material or necessary for her this defendant to make answer unto, she this defendant answereth and saith, That she believes and admits it to be true that the said relator *F. W.* is vicar of the parish church of ——— in the county of ———, and that the said relators *J. B.* and *J. C.* are churchwardens of the said parish of ——— in the said information mentioned; and this defendant believes and admits it to be true that *W. B.* late of ——— deceased in the said information named, was in his life-time and at the time of his death possessed of a considerable personal estate, and being so possessed he did on or about the ——— day of ——— which was in the year of our Lord 17 ——— make and duly publish his last will and testament in writing of that date, and did therein and thereby (amongst other things) give and bequeath the sum of 500 *l.* to be raised by and out of his personal estate, unto *T. W.* and *J. B.* of *&c.* two other defendants in the said information named, their executors and administrators, ~~Upon trust~~ that they should lay out part thereof in building a small school-house in ——— with an house adjoining for a school-master to live therein, and did thereby direct that the purchase of the ground and expence of building should not exceed the sum of 200 *l.* and the remaining 300 *l.* he the said *W. B.* did thereby will and direct should be laid out in the purchase of land or some real security, to be a maintenance and provision for the master of the said school; all which the said testator did by his said will appoint to be done by the advice and assent of the proprietor of *L.* and the vicar of the said church of ——— and the two churchwardens of the said parish of ——— for the time being, or any two of them, whereof the proprietor of *L.* aforesaid, or the said vicar for the time being to be one; in which school the said testator did direct such boys to be taught in such manner as therein and in the said information particularly

particularly mentioned, and the said testator did likewise by his said will give such directions concerning the choice and removal of the said master of the said school, as therein and in the said information particularly mentioned, and the said *W. B.* did by his said will give to the poor of the said parish of —, to be also raised out of his personal estate, the sum of 100 *l.* to be paid by his executrix to the churchwardens of the said parish, who (with the consent and approbation of the vicar of the said parish) he thereby directed should place the same out at interest for such purposes as therein and in the said information particularly mentioned, and of his said will the said testator did appoint this defendant his widow and relict sole executrix; and the said *W. B.* did by a codicil to his said will by him duly made and published, and bearing date the — day of — which was in the year of our Lord 17 —, appoint *L. R.* of, &c. (another defendant in the said information named) a trustee for the purposes in the said will mentioned, together with the other trustees therein named; and this defendant saith, that the said *W. B.* did depart this life on or about the time in the said information for that purpose mentioned, without revoking or altering his said last will and testament any further or otherwise than by the said codicil as aforesaid; and this defendant admits it to be true, that soon after the death of the said testator, (that is to say) on or about the — day of — 17 — this defendant did prove the said will and codicil of the said testator in the prerogative court of the Archbishop of *Canterbury*, being as this defendant apprehends and believes the proper ecclesiastical court, as by such will and codicil or the probate thereof, to which when produced this defendant craves leave to refer, may more fully appear; and this defendant admits that she has taken upon her the burthen of the execution of the said will and codicil; and this defendant further saith that she admits it to be true, that the said *W. B.* was in his life-time and at the time of his death possessed of, or entitled to a considerable personal estate fully sufficient to pay and satisfy all the just debts and funeral expences of the said testator, and also all the legacies given and bequeathed by his said will; and this defendant further saith, that she admits it to be true, that she did soon after the death of the said testator get into her hands, custody or power, so much of the said personal estate as was fully sufficient to pay all the just debts and funeral expences of the said testator, and also all the legacies given by his said will; and this defendant also admits it to be true, that she did, upon the death of her said husband, enter upon the freehold estate of her said late husband, called *L.* and did become, and now is, the proprietor thereof for her life, according to the said testator's will; and this defendant admits it to be true, that all the said relators have applied to her to pay the said other defendants *L. R.*, *T. W.* and

and *J. B.* the said sum of 500 *l.* in trust to be applied in and to the purposes mentioned and declared in and by the said testator's said will in respect thereof, and also to assist them in carrying into execution the purposes aforesaid, according to the directions of the said will in relation to the said 500 *l.* But this defendant humbly submits it to the judgment of this honourable court, whether by virtue of the statute, made in the 9th year of the reign of his present Majesty, intituled, an act to restrain the dispositions of lands, whereby the same became unalienable, the devise of the said 500 *l.* so to be laid out in such purchase and in such manner as in the said will mentioned, is not void; and this defendant therefore humbly submits it to the judgment of this honourable court, whether the said 500 *l.* or any part thereof, ought, according to law, to be raised or paid or applied for such purposes as aforesaid, or any of them; and this defendant humbly insists upon the said statute, and humbly hopes, that she shall have the benefit thereof in as full and ample manner, to all intents and purposes, as if she had pleaded the same to so much of the said information, as seeks to have the said 500 *l.* raised and paid as aforesaid; and this defendant further saith, that she denies that the said relators *J. B.* and *J. C.* the present churchwardens of the said parish of ———, or either of them, have or hath ever in any manner, save by the said information, applied to this defendant to pay to them the said sum of 100 *l.* in trust to be by them applied in or to the charitable purposes mentioned or declared in or by the said testator's said will in respect thereof, or to any such effect; nor did this defendant ever refuse to pay the said relators, or either of them, the said sum of 100 *l.* to be by them respectively applied in and to the several charitable purposes by the said will declared concerning the same, or to any such effect; but on the contrary, this defendant is and always has been ready and willing to pay the same to the churchwardens of the said parish at any time whenever they would think proper to require or receive the same; and this defendant has paid interest for the said 100 *l.* at the rate of 5 *l. per cent.* by the year to the churchwardens, vicar and curate of the said parish, or to one of them, for the time being, from the time of the death of this defendant's said husband to the ——— day of ——— in the year of our Lord ———. And this defendant admits it to be true, that for the reasons herein before mentioned, she does refuse to pay, and does humbly insist, that she is no wise liable or obliged to pay to the said other defendants *L. R. T. W.* and *J. B.* or to any of them, the said sum of 500 *l.* or any part thereof, to be by them applied in or to the several purposes by the said will declared concerning the same, or to assist in the carrying into execution the said purposes or directions of the said testator in relation thereto; and this



this defendant denies, that she does or ever did pretend, that the said *W. B.* the said testator, did not leave assets sufficient to pay and satisfy all his just debts, legacies and funeral expences, or to any such effect; but on the contrary, this defendant does admit assets of the said testator's personal estate and effects come to and now in her hands, sufficient to answer and pay the said legacies of 500 *l.* and 100 *l.* and the interest thereof respectively; and this defendant denies, that she hath in any manner wasted or misapplied the said testator's personal estate and effects, or any part thereof; and this defendant saith, that she hath not exhibited any inventory of the said testator's personal estate into the registry of the proper ecclesiastical court, she having never been called upon or desired so to do; and this defendant denies, that the said charitable bequests are in any danger of being lost, or the intention of the said testator frustrated, save only, that as to the said devise of the said 500 *l.* this defendant doth humbly insist, that the same is a bad and void devise at law; and that therefore the said 500 *l.* or any part thereof, ought not to be raised, or paid or applied, according to the directions of the said will; and this defendant denies all manner of unlawful combination and confederacy in the said information charged; without that, that any matter or thing in the said information contained, material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, &c. [*in the common form.*]

*A Bill of Interpleader.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your orator *J. W.* of —, That *H. T.* late of the city of *B.* in the county of *S.* being possessed of a messuage or tenement with the appurtenances, situate and being at *S.* within the manor and parish of *H.* in the county of *W.* called the *B.* Inn, and also of two closes of arable land called *W.* situate, lying and being within the said manor and parish of *H.* for the remainder of one or more long term or terms of years, determinable with the lives of him the said *H. T.* *J. T.* his son, and *M. M.* widow, his daughter, and the survivors and survivor of them, which said messuage or tenement, lands and premises had been granted, and which he so held by and under two several leases thereof respectively made and executed to him by *J. W.* of — Esq; then lord of the said manor, at and under the yearly rents and covenants therein respectively contained, he the

the said *H. T.* did some time in the year ———— duly make and publish his last will and testament in writing, and thereby give and devise all the said premises to the said *J. T.* his son, for so long of the said terms as he should live, and after his death he gave the same to *M.* the wife of the said *J. T.* for so long of the said terms as she should live, and after her death willed and devised, that the executors of the said *J. T.* should hold and enjoy the said premises for all the rest, residue and remainder of the said two terms then to come and unexpired, and of his said will made the said *J. T.* executor; and soon after the making his said will, he the said *H. T.* departed this life; whereupon the said *J. T.* entered upon the said premises, and held and enjoyed the same under the said will; and he the said *J. T.* did soon after his said father's death, prove the said will in some proper ecclesiastical court, as in and by the said will, or the probate thereof under the said seal of the court, relation being thereunto had, will appear. And your orator further sheweth unto your Lordship, that the said *J. T.* being possessed of the said premises, as devisee under the said will, as aforesaid, or as executor of the said will, he and the said *M.* his wife, did some time in or about the year of our Lord ———— make some mortgage of the said messuage or tenement called the *B. Inn* to *J. K. E.* late of ———— Esq; since deceased, for securing the repayment of the principal sum of 100 *l.* with interest for the same; and at or about the same time, or shortly afterwards, they the said *J. T.* and *M.* his wife, did make some mortgage of the said two closes called *W.* to *J. C.* of the said city of *B. barber*, for securing the repayment of the principal sum of 90 *l.* with interest for the same, as in and by the said mortgage deeds, had your orator the same to produce, relation being thereunto respectively had, would appear. And your orator further sheweth unto your Lordship, that afterwards the said principal and interest secured by the said mortgage to the said *J. C.* not being paid according to the proviso or condition for payment thereof in the said mortgage to him made contained, and the estate in law of and in the said two closes, being become absolute at law in him the said *J. C.* and there being 96 *l.* 10 *s.* remaining due to him for principal and interest on the said mortgage, he the said *J. C.* did, by some indenture by him duly executed, for the considerations therein mentioned, assign the said two closes, and all his estate, right, title and interest therein to *R. K.* of *B.* in the said county of *W.* yeoman, subject to redemption on payment of the principal sum of 96 *l.* 10 *s.* with interest for the same, by the said *J. T.* at the time and in the manner in the said deed of assignment mentioned, as in and by the said deed of assignment, had your orator the same to produce, relation being thereunto had, would more fully

fully appear ; and the said *J. T.* at or about the same time delivered him the said *R. K.* the possession of the said two closes, and he hath ever since been in the receipt of the rents thereof : And your orator further sheweth unto your Lordship, that the said *J. K. E.* some time since departed this life, having in his life-time duly made and published his last will and testament in writing, and thereof nominated and appointed *C. E.* spinster, his only child, executrix, who hath since his death duly proved his said will in some proper ecclesiastical court, as in and by the probate thereof under the seal of the said court, relation being thereunto had, will appear ; and your orator sheweth unto your Lordship, that the estate in law of the said *C. E.* of and in the said messuage or tenement called the *B. Inn*, being absolute in her as executrix as aforesaid, and there being a large sum of money due upon the said mortgage thereof for principal and interest, she the said *C. E.* did, by some indenture or deed of assignment, for the considerations therein mentioned, some time in or about the month of *October* last, assign the said messuage or tenement with the appurtenances, and all her estate, right, title, or interest therein to the said *R. K.* as in and by the said last mentioned deed or indenture of assignment, had your orator the same to produce, relation being thereunto had, would appear. And your orator further sheweth unto your Lordship, that the said *R. K.* being possessed of and intitled to the said two closes of land, by virtue of and under the said assignment thereof, did some time in or about the month of *September* last demise the same to your orator by parol or word of mouth only, for the term of three years from *Michaelmas* now last past, at the yearly rent of —, payable —, which is the full yearly value thereof ; and the said *C. E.* shortly before she assigned the said messuage or tenement to the said *R. K.* as aforesaid, had in like manner demised the same to your orator by parol or word of mouth only for three years from *Michaelmas* now last past, at the yearly rent of — payable —, which is the full value thereof. And your orator sheweth unto your Lordship, that the said *J. T.* having got into the possession of all the premises, the said *R. K.* hath caused an action of trespass and ejectment to be brought in his Majesty's court of King's Bench for recovery of the possession thereof, and hath caused a declaration in ejectment to be delivered to and served upon your orator, but at the same time told your orator, that he would not disturb your orator in his possession as tenant thereof as aforesaid, and that he only intended to recover the same against the said *J. T.* and your orator having given notice of and delivered over the said declaration to the said *J. T.* he alleged to your orator, that he had paid off and satisfied the said *R. K.* all monies due on the said two mortgages, and told your orator he need not give him-  
self



self any trouble about it, declaring that he the said *J. T.* would defend the said suit, and the possession of the said premises. And your orator further sheweth unto your Lordship, that — being a year's rent, became due from your orator for the said premises; and they the said *R. K.* and *J. T.* have both of them demanded the same of and from your orator, and do each of them insist to be paid the same; and your orator sheweth unto your Lordship, that your orator confiding in such the declarations of them the said *R. K.* and *J. T.* with respect to the said ejectment, did not make any defence thereto, but by collusion between them and the said *R. K.* and *J. T.* the said *J. T.* having caused himself or your orator to be made tenant in the room of the casual ejector, the said cause was by the said *R. K.* carried down in order to be tried at the last assizes held in and for *S.* in the said county of *W.* and the jury being sworn, and the said *J. T.* or any on his or your orator's behalf, not appearing to confess lease, entry, and ouster, the plaintiff in the said ejectment was nonsuited, and the *posse* being returned, judgment hath been thereupon given against the casual ejector, and the said *R. K.* threatens that he will cause a writ of possession to be sued out upon the said judgment, and will turn your orator out of possession of the said premises, and will cause an action to be brought against your orator for the mesne profits thereof; and they both threaten to distrain your orator's goods for the said rent, and otherwise to proceed against your orator at law for the same, so that your orator is not able to determine or judge to which of them the said rent of right belongs, or is payable; nor to which of them securely and with safety to pay the same; and they both declare and threaten they will turn your orator out of possession of the said premises, and not suffer your orator to hold or enjoy the same. **All which actings and doings** of the said *R. K.* and *J. T.* (who combine and confederate together, and with divers other persons at present unknown to your orator, whose names, when discovered, your orator prays may be inserted herein, and they made parties, with apt words to charge them, how to injure and oppress your orator in and touching the premises) are contrary to equity and good conscience, and tend to your orator's manifest wrong and oppression. **In tender consideration whereof,** and forasmuch as your orator is remediless in the premises by the rules of common law, and can only be relieved in a court of equity before your Lordship, where matters of this nature are properly cognizable, and where your orator may compel the said claimants to interplead and settle and adjust their rights and demands between themselves, so that your orator may be enabled to pay the said rent with safety; and for that your orator's witnesses, who could prove the truth of the several matters  
aforesaid,

aforesaid, are dead, or gone into parts beyond the seas remote, and to your orator unknown; ~~To the end therefore~~, that the said *R. K.* and *J. T.* and the rest of the confederates (when discovered) may, upon their respective corporal oaths, full, true and perfect answer make (according to the best of their knowledge, remembrance, information, and belief) to all and singular the matters aforesaid, as fully and effectually, to all intents and purposes, as if the same were here repeated, and they particularly and distinctly interrogated; and more especially that they may set forth and discover, whether the said *H. T.* was not in his life-time possessed of the said messuage or tenement, and two closes of land, for some and what term or terms of years determinable in manner as aforesaid, or how otherwise; and whether he did not in his life-time duly make and publish his last will and testament in writing, and thereby give and devise the premises, or any, and what part thereof, to such persons and in such manner as aforesaid, or how otherwise; and whether the said *J. T.* and *M.* his wife, or either and which of them, did not become possessed of or intitled under the said will, or how otherwise, to the said premises, or any and what part thereof; and whether the said *J. T.* and *M.* his wife, or the said *J. T.* alone, did not make some, and what mortgage of the said messuage or tenement called the *B. Inn*, to the said *J. K. E.* and whether the estate at law of the said *J. K. E.* or of the said *C. E.* therein did not become absolute; and whether he the said *J. K. E.* is not dead, and where he died; and whether he did not in his life-time make the said *C. E.* his only child executrix thereof; and whether she as executrix as aforesaid, did not become possessed of or intitled to the same; and whether she did not make such assignment thereof as aforesaid, or any other, and what assignment, and when, to the said *R. K.* or how otherwise he the said *R. K.* became possessed of or intitled to the same; and whether as they know, have heard, or do believe, the said *C. E.* before the making the said assignment, did not demise the said messuage or tenement to your orator by parol or word of mouth, or how otherwise, for such term of three years from *Michaelmas* last, or for what other term, at such yearly rent as aforesaid, payable as aforesaid, or what other rent, and how payable; and whether they the said *J. T.* and *M.* his wife, or the said *J. T.* alone, did not make some, and what mortgage of the said two closes to the said *J. C.* and whether the estate of the said *J. C.* therein did not become absolute at law; and whether the said *J. C.* did not afterwards, and when, make some and what assignment thereof to the said *R. K.* and whether he the said *R. K.* did not, and when, demise the said two closes to your orator by parol or by word of mouth, or how otherwise, for such term of three years from *Michaelmas* last, or for what

other term, at such yearly rent as aforesaid, payable as aforesaid, or what other rent, and how payable; and whether the said *R. K.* hath not caused a declaration of ejectment to be delivered, and when, to your orator; and whether he did not make and give your orator such assurance concerning the same as aforesaid, or what else he said, intimated or signified to your orator concerning the same; and whether he the said *J. T.* did not cause himself to be made defendant in the said action in the room of the casual ejector, and whether he did not undertake or promise to defend the same, and whether he any ways, and how, did defend the same; and whether the plaintiff in the said ejectment was not nonsuited at the said last *S.* assizes on account of the *J. T.*'s not appearing to confess lease, entry, and ouster, and how otherwise; and whether thereupon judgment hath not been had, or is not intended to be had, against the casual ejector; and whether he the said *R. K.* hath not threatened or declared that he would cause a writ of possession to be sued out upon the said judgment, or doth not intend so to do; and whether they the said *R. K.* and *J. T.* have not threatened to turn your orator out of the possession of the said premises, or any and what part thereof; and whether there is not now due for rent of the said premises the sum of ———, or any other, and what sum; and whether they do not both demand the said rent, or threaten to distrain or sue your orator for the same, or which of them so doth, and that they may set forth to which of them the said rent doth of right belong, or is payable, and may interplead and settle and adjust their said demands between themselves; your orator being willing to pay the said rent to either of them, to whom the same shall appear of right to belong, being indemnified; and that your orator may be at liberty to bring the same into this honourable court, which your orator doth hereby offer to do for the benefit of such of the said two parties who shall appear to be intitled thereto; and that they the said *R. K.* and *J. T.* and each of them, may be restrained by the injunction of this honourable court from proceeding at law against your orator for the said rent, and also from proceeding in the said ejectment, or any other ejectment, for recovery of the said premises or any part thereof, during the remainder of the said three years, for which the said premises were severally demised to your orator as aforesaid; and that your orator may be quieted in the possession of all and singular the said premises during such the remainder of the said term of three years; and that your orator may have and receive such further and other relief in and touching all and singular the matters and things aforesaid, as to your Lordship shall seem meet, and agreeable to equity and good conscience; May it please your Lordship, &c.

*Note;*



*Note;* To this bill an affidavit must be annexed, that the plaintiff doth not in any respect collude with either of the defendants touching all or any of the matters in question in the cause, nor is any ways indemnified by either of the defendants; nor doth exhibit his bill at the request or with the knowledge of either of them, but merely of his own free will, and to avoid being doubly vexed touching the matters contained in his bill.

*A Bill for a Partition, in Chancery.*

*To the Right Honourable Alexander Lord Loughborough, Baron of Loughborough in the County of Leicestershire, Lord High Chancellor of Great Britain.*

**H**UMBL Y complaining, sheweth unto your Lordship, your oratrix *T. B.* of *Essex*. — That by indentures of lease and release and settlement made previous to and in contemplation of the marriage of *A. B.* — late of *Essex*. deceased — with *C. D.* of *Essex*. — now also deceased, the late father and mother of your oratrix, bearing date respectively the first and second days of *March*, in the year 1785, the release being of three parts, and made or mentioned to be made between the said *A. B.* — of the first part, the said *C. D.* — of the second part, and *E. F.* of, *Essex*. and *G. H.* of, *Essex*. of the third part, reciting that a marriage was intended to be then shortly had and solemnized, between the said *A. B.* — and *C. D.* —. It is witnessed that for and in consideration of the said then intended marriage, and of the fortune and estate which the said *A. B.* — was to have and receive with the said *C. D.* — as therein mentioned, and for settling and assuring the messuages, lands, tenements, and hereditaments therein after mentioned, to the several uses intents and purposes thereafter declared, concerning the same, and for other the considerations therein mentioned. The said *A. B.* — Did grant, bargain, sell, release and confirm unto the said *E. F.* — and *G. H.* — and to their heirs, all that parcel of land with the appurtenances containing, *Essex*. And all other the messuages, lands, tenements, and hereditaments whatsoever, of him the said *A. B.* — or whereof or wherein he or any other person or persons whatsoever, in trust for him or to his use had any estate of inheritance situate and being in the said several towns, parishes, hamlets, *Essex*. *Essex*. any or either of them. And the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. And all his estate

right,

right, title, and interest therein. To hold unto, and to the use of the said *E. F.* and *G. H.* and their heirs, to the uses, intents and purposes thereafter-mentioned, limited and declared (that is to say), to the use and behoof of the said *A. B.* — and his assigns, for the term of his natural life, without impeachment of waste, remainder to the use of the said trustees, in trust to support contingent remainders, remainder to the use and behoof of the said *C. D.* — for the term of her natural life, for her jointure, and which, with other messuages, lands, tenements and hereditaments, then intended to be purchased and settled to the uses, intents and purposes, contained in certain articles therein mentioned, was thereby declared and agreed to be in full satisfaction of and for her dower and thirds at the common law, of and in the lands and hereditaments of the said *A. B.*, — remainder, from and after the deceases of the said *A. B.* — and *C. D.* his then intended wife, and the longer liver of them, to the use and behoof of such child or children of the said *A. B.* — on the body of the said *C. D.* — his then intended wife, lawfully to be begotten, in such proportions, manner and form, and for such estate and estates, as the said *A. B.* — should by deed or writing, under his hand and seal, to be executed and attested in manner therein, in that behalf mentioned, or by his last will and testament in writing, or by any other writing in the nature of, or purporting to be his last will and testament to be by him signed and sealed in the presence of three or more credible witnesses, direct or appoint, so as by such appointment, all the said premises be appointed to all, some or one of the child or children of the said *A. B.* — on the body of the said *C. D.* — his then intended wife, lawfully to be begotten, and the heirs and assigns of the said children, some or one of them in possession. And for default of such direction and appointment, to the use and behoof of such child or children aforesaid, in such proportion, manner and form, and for such estates as the said *C. D.* — should by any deed or writing under her hand and seal to be by her executed in manner therein mentioned, or by her last will and testament, to be by her signed and sealed, in the same manner as aforesaid. And in default of such direction and appointment, to the use and behoof of all and every, the child or children aforesaid, to be divided between them, share and share alike, as tenants in common, and not as joint-tenants, with such benefit of survivorship between and amongst them, as therein mentioned. And for default of such issue, to the use and behoof of the right heirs of the said *A. B.* — for ever, as in and by such deeds or indentures of lease and release, and settlement, now or late in the custody or power of the defendants herein after named, some or one of them, when the same shall be produced to this honourable court, will

will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that by a certain other indenture being also tripartite, bearing even date with the aforesaid indenture of release, and made between the same parties, for the considerations therein mentioned, the said *A. B.* — did covenant within the time therein limited, to transfer to the said *E. F.* — and *G. H.* — the sum of 5000 *l. South-sea* annuity stock, (and which was transferred accordingly); upon the trusts, and for the intents and purposes therein mentioned, expressed, and declared, of and concerning the same. And the said *A. B.* did covenant within the time therein, in that behalf limited, to surrender the several customary and copyhold messuages, lands, tenements, and hereditaments, situate and being in the several manors of, &c. and therein particularly mentioned and described. To such uses, intents and purposes, and subject to such trusts, provisos and agreements, as are limited, declared and expressed in the said deed or indenture of release, of and concerning the said freehold lands, hereditaments, and premises, and which surrender was afterwards accordingly made, as in and by such last mentioned deed or indenture, now also or late in the custody or power of the defendants hereinafter named, some or one of them, when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the marriage between the said *A. B.* — and *C. D.* — shortly afterwards took effect, and was duly had and solemnized, and that there was issue of the said marriage, who survived the said *A. B.* and *C.* his wife (formerly *C. D.*) four children and no more, namely *A. B.* — their eldest son, and heir at law, and customary heir, as to part of the said copyhold premises, *K. B.* — customary heir as to the other part, *L. B.* — *C.* your oratrix; and your oratrix further sheweth unto your Lordship, that the said *A. B.* — the elder, in his life time, duly made and published his last will and testament in writing, which was duly signed and sealed by him, in the presence of, and attested by three credible witnesses, and which was according to the manner and form prescribed by the said indenture of settlement, bearing date on or about the — day of — — and thereby amongst other things, after reciting or taking notice of the aforesaid several deeds or indentures, and of the powers of appointment therein, and thereby respectively given to him, he the said testator, pursuant to the power so reserved and lodged in him by the said indentures, did thereby give and devise, direct and appoint, all and every the said freehold messuages, lands, tenements and hereditaments, with the appurtenances, and likewise the said several copyhold and customary messuages, lands, tenements, and hereditaments, with the ap-



purtenances after the determination of the estate, and interest therein, by the said indenture of release limited, and by the said other indenture, covenanted to be limited to his said dear wife, for her life, to and to the use of such child and children of him the said testator, on the body of his said wife begotten, and to be begotten, in such proportions, manner and form, and for such estate and estates, as his said wife should by any deed or writing under her hand and seal, to be executed in manner therein mentioned, or by her last will and testament in writing, or by any other writing, in the nature of or purporting to be her last will and testament, to be by her signed and sealed in the presence of three or more credible witnesses, direct or appoint, so as by such appointment, all the said premises should be appointed to all or some, or one of the child or children of him the said testator, on the body of his said wife begotten, and to be begotten, and the heirs and assigns of such children, some or one of them. And the said testator thereby appointed his said wife sole executrix of his said will, as in and by the said will, when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the said testator *A. B.* ——— afterwards, that is to say, on or about the ——— day of ——— departed this life without having revoked or altered his said will, and without having made or executed any other direction or appointment, of or concerning the said freehold and copyhold estates and premises, in any part thereof, than what is contained in his said will, and leaving the said *A. B.* the younger, and *L. B.* his customary heirs, and the said *C. B.* ——— his widow and executrix, him surviving, who shortly afterwards proved the said will in the prerogative court of the Archbishop of *Canterbury*, as by the probate thereof, when produced to this honourable court, will appear. And your oratrix further sheweth unto your Lordship that the said ——— *C. D.* ——— the said testator's widow in her life-time, also duly made and published her last will and testament in writing, which was duly signed and sealed, by her in the presence of, and attested by three credible witnesses, being after the manner and form prescribed by the said testator's will, bearing date on or about the ——— day of ——— and thereby (amongst other things) after reciting and taking notice of the aforesaid several indentures, and the said will of her said late husband *A. B.* ——— deceased, and of the powers therein and thereby given to, and vested in her the said testatrix, of direction and appointment, of and concerning the said freehold and copyhold estates and premises, she the said testatrix by virtue of, and in execution of the several powers, so given to, and vested in her as aforesaid, and of all and every power and powers in her vested, or her in any other way thereunto enabling, did in compliance

compliance with her said late husband's request, and according to her promise to him, thereby give, devise, direct and appoint, all and every the said several freehold messuages, lands, tenements and hereditaments, together with certain leasehold premises therein mentioned, situate, lying and being in, &c. unto her eldest son *A. B.* — his heirs, executors, administrators, and assigns, to hold the same unto and to the use of him the said *A. B.* — his heirs, executors, administrators, and assigns for ever. And the said testatrix, by virtue aforesaid, in exercise and execution of the several powers, to her in that behalf given, and her thereunto enabling, did thereby give, devise, direct, and appoint all and every the said several freehold messuages, lands, tenements and hereditaments, situate, lying and being in the several towns, parishes, hamlets, &c. And also all and every the said copyhold or customary messuages, lands, tenements and hereditaments in the said several manors of, &c. unto her youngest son *K. B.* her eldest daughter *L. B.* — and her youngest daughter your oratrix, their heirs and assigns, to hold the same unto and to the use of the said *K. P. L. B.* — and your oratrix, their heirs and assigns, equally to be divided between them, share and share alike, as tenants in common, and not as joint tenants; and the said testatrix thereby directed the share of the said freehold and copyhold premises thereby given and appointed to the said *L. B.* — should be to and for her own sole and separate use, exclusive of and not subject to the debts, controul or engagements of her then present or any future husband; and the said testatrix thereby appointed *P. Q.* of, &c. — and her sons *A. B.* and *K. B.* — executors of her said will, as in and by the said last mentioned will, when the same shall be produced to this honourable court, will more fully and at large appear: And your oratrix further sheweth unto your Lordship, that the said testatrix *C. B.* afterwards (that is to say) on or about the — day of — departed this life without having revoked or altered her said will as to the aforesaid direction or appointment therein contained, and without having made any other direction or appointment of or concerning the said settled freehold and copyhold estates, or any part thereof, than as contained in her said will, and leaving the said *P. Q. A. B.* and *K. B.* — her executors, and the said *L. B.* — and your oratrix her only issue or children by the said *A. B.* — the elder, her said late husband her surviving; and that on or about the — day of — the said *A. B.* and *K. B.* — alone duly proved the said will in the prerogative court of the Archbishop of *Canterbury*, the said *P. Q.* — declining to prove the same as in and by the probate of the said will, when produced to this honourable court, will appear: And your oratrix

trix further sheweth unto your Lordship, that the trustees under the said settlement are both dead ; and that the said *G. H.* — was the survivor ; and that *H. H.* of, &c. — is now heir at law, and in whom the legal estate and interest of and in the said freehold estates are vested in trust as aforesaid : And your oratrix further sheweth unto your Lordship, that under and by virtue of the several deeds and wills or instruments herein before set forth, your oratrix is intitled unto one full and equal undivided third part or share of the several freehold and copyhold estates in and by the said will of the said testatrix *C. B.* — appointed and directed between and amongst the said *K. B.* *L. B.* — and your oratrix in equal shares, as tenants in common as before stated, and to one third of the rents and profits of such estates and premises accrued since the death of her said late mother, which have been possessed by the defendants after named, or some or one of them ; and that being so intitled, your oratrix hath frequently applied and caused applications to be made to the said *K. B.* and *L. B.* — and requested them to join and concur with your oratrix in the necessary and proper acts for making a fair and equal division and partition of the same freehold and copyhold estates and premises between and amongst them and your oratrix accordingly, and to account for the rents and profits thereof received by them, and which reasonable requests, your oratrix well hoped that they would have complied with, as in justice and equity they ought to have done : But now so it is, may it please your Lordship that the said *K. B.* and *L. B.* — combining and confederating together, and to and with the said *A. B.* and also with the said defendant *H. H.* — absolutely refuse to agree to any division or partition of the said estates and premises, though for what reason they refuse to discover or set forth ; and your oratrix charges that the several titledeeds and writings relating to and concerning the said estates and premises are now in the custody or power of the said defendants, some or one of them, and which ought to be produced and secured for the benefit of all parties interested therein ; and your oratrix also charges that the said defendants *A. B.* and *H. H.* — ought to join in all necessary acts and deeds for conveying and assuring to your oratrix her said third part and share of and in the said several estates and premises both freehold and copyhold, but which they decline to do without the direction of this honourable court. **In tender consideration** whereof, and soasmuch as your oratrix cannot be fully relieved in the premises but in a court of equity where matters of this nature are properly cognizable and relievable ; to the end therefore, that the said defendants *K. B. L. B. A. B.* and *H. H.* — may upon their several and respective corporal oaths, full, true, direct



direct and perfect answer make to all and singular the several matters and things herein and hereby stated, alledged and inquired after, according to the best and utmost of their respective knowledge, remembrance, information and belief, and that as fully and particularly as if the same were here again repeated, and they were thereunto respectively interrogated; and more especially whether such several deeds or indentures of settlement as hereinbefore mentioned, and of such respective dates, and between such parties, and of or to such or the like purport or effect respectively as hereinbefore stated and set forth, were not entered into and duly executed, previous to and in contemplation of the marriage of the said *A. B.* — the elder, and *C. D.* — or some other, and what deeds or indentures of some other and what dates or date, between some other, and what parties, and of or to some other and what purport or effect respectively; and whether the said *A. B.* the elder did not duly surrender the said copyhold premises to the uses of the said settlement; and whether the marriage between the said *A. B.* and *C. D.* did not afterwards take effect, and was not duly had and solemnized, or how otherwise; and whether there was not such issue of the said marriage who survived the said *A. B.* — the elder, and *C.* his wife, as hereinbefore mentioned, or any other and what issue; and whether the said *A. B.* the elder did not in his life-time make and duly publish such his last will and testament in writing, of such date, and to such or the like purport and effect as hereinbefore in that behalf stated and set forth, (so far as the same is set forth) or some other and what will of some other, and what date, and of or to some other and what purport or effect; and whether such will was duly executed and attested in such manner and form as herein before in that behalf mentioned, or how and in what respect otherwise; and whether the said *A. B.* did not depart this life at or about the time herein before in that behalf mentioned, or at some other time and when; and whether he did revoke, or in any and what respect alter his said will, or the direction and appointment therein contained as before mentioned; or did make any other and what direction or appointment of and concerning the said settled estates and premises, or any and what parts thereof; and whether the said testator *A. B.* did not leave the said defendant *A. B.* his eldest son and heir at law, and the said *C. B.* his widow him surviving; and whether she the said *C. B.* did duly prove the said testator's said will in the prerogative court aforesaid, or in some and what other ecclesiastical court; and whether she the said *C. B.* did not in her life-time duly make and publish her last will and testament in writing, of such date or to such or the like purport and effect as hereinbefore in that behalf set forth, as far as the same is set forth, or some other and what will of some other and what date,

date, and or to some other and what purport or effect; and whether such will was not duly executed and attested in such manner and form as hereinbefore in that behalf mentioned, or how and in what respect otherwise; and whether she the said testatrix did not depart this life at or about the time hereinbefore in that behalf mentioned, or at some other time and when; and whether she did revoke, or in any and what respect alter her said will as to the aforesaid direction or appointment therein contained; and whether she did ever and when make and execute any and what direction or appointment of and concerning the said settled estates and premises, or any and what part thereof; and whether she the said testatrix did not leave her said executors and the said *A. B. K. B.* and *L. B.* and your oratrix her only issue by the said *A. B.* — the elder, her surviving; and whether the said *A. B.* and *K. B.* did not alone duly prove the said testatrix's said will in the prerogative court aforesaid, or in some and what other ecclesiastical court; and whether the said *P. Q.* — did not decline to prove the same, or how otherwise; and whether the said *A. B.* and *K. B.* are not the customary heirs of the said *A. B.* — the father, of the respective copyhold estates before mentioned; and whether the trustees under the aforesaid settlement are not dead, and whether the said defendant *H. H.* is not the heir at law of the surviving trustee; and whether your oratrix is not in manner aforesaid, or how otherwise is become intitled unto one full and equal undivided third part or share of the several estates and premises, as well freehold as copyhold, in and by the said will of the said testatrix *C. B.* — directed and appointed unto and amongst the said *K. B.* — *L. B.* and your oratrix as tenants in common as aforesaid, or how otherwise, and also to one third part of the rents and profits thereof as aforesaid; and whether your oratrix hath not made or caused to be made to them the said defendants *K. B.* and *L. B.* — such applications, and for such purposes as hereinbefore in that behalf mentioned, or some other and what applications, and for some other and what purposes, and whether they do not and for what reason they refuse to comply therewith; and whether they do not severally refuse to agree to a division and partition of the said estates and premises in manner aforesaid, and why and for what reason; and whether the said defendants, or some or one and which of them have or hath not the custody, possession or power of or over the several title deeds and writings belonging to the said estates and premises, or some and which of them; and whether the said defendant *H. H.* does not decline to act without the directions of this honourable court, and that the said defendants may severally answer the matters aforesaid; and that the said estates and premises, both freehold and copyhold, so as aforesaid directed  
and

and appointed by the will of the said testatrix *C. B.* unto and amongst the said *K. B.* and *L. B.* and your oratrix as tenants in common as aforesaid, may be decreed to be divided into three equal parts or shares, and that one full and equal third part or share thereof when so divided, may be decreed to belong to your oratrix and her heirs in severalty; and that one or more commission or commissions may issue directed to proper commissioners for the purpose of making such division and partition accordingly, with the necessary and usual directions in that behalf; and that all proper parties may be ordered to join in executing to each other beneficially interested therein as aforesaid, all necessary deeds for making a good title in severalty in and to their respective parts and shares of the said estates, and that all title deeds and writings relating to the said estates, may be produced and left with one of the masters of this honourable court for safe custody; and that the said defendants may be decreed to account for the rents and profits of the said estates accrued since the death of the said testatrix; and that one third part thereof may be paid to your oratrix, and that your oratrix may have and receive all such further and other relief in the premises as the nature and circumstances of her case may require, and as to your Lordship shall seem meet. May it please, &c.

*A Bill for a Partition in the Exchequer.*

*To the Right Honourable, &c.*

**H**UMBL Y complaining, sheweth unto your Honours, your orator *A. B.* of ——— in the county of *Denbigh*, Esq; debtor and accountant, &c. That your orator, together with *M. K.*, *M. K.*, *D. K.* and *A. K.* all of the city of ———, spinsters (sisters of your orator), and the defendants herein after named, are now seised in fee-simple in possession as tenants in common in undivided fifth parts of and in the messuages, tenements, lands, rents, hereditaments, and premises hereinafter particularly mentioned [*State the lands*], together with all and singular the rights, members, and appurtenances thereunto belonging; and your orator is now seised in fee simple of and in one undivided fifth part or share thereof, and the whole of the estates and premises are of the yearly value of ——— *l.* or thereabouts, and the title deeds and writings relating to the said estates, are now, or lately were, in the custody or power of the said defendants hereinafter named. And your orator further sheweth unto your Honours, that he and the said defendants hereinafter named, his said sisters, have, for several years, enjoyed



joyed the said estates in undivided fifth shares as tenants in common, but it being very disadvantageous to your orator to continue the enjoyment thereof in that manner, he is desirous that a partition should be made of the said estates and premises, and that his fifth part thereof should be divided and allotted to him and his heirs in severalty; and he has for that purpose applied and caused several applications to be made to the said defendants and requested them to consent to a fair partition and division being made of the said estates, and that one-fifth part thereof should be allotted to your orator and his heirs, and held and enjoyed by him in severalty; and that the deeds and writings relating to the said estates might be deposited in some proper place for safe custody and the mutual benefit of your orator and the said defendants, and your orator well hoped they would have complied with such his requests, as in justice and equity they ought to have done. **But now so it is,** may it please your Honours, that the said *M. K.*, *M. K.*, *D. K.* and *A. K.* combining and confederating to and with divers other persons at present unknown to your orator, whose names, when discovered, your orator prays may be herein inserted and made parties hereto, with proper charges against them as defendants hereto, contriving how to injure and oppress your orator in the premises, they the said defendants absolutely refuse to comply with your orator's said requests, sometimes pretending that your orator is not seised as tenant in common with them of a fifth or any part or share of the said estates and premises, but that the said defendants are seised of the whole thereof, whereas your orator charges the contrary; and so the said defendants will at other times admit, but then they refuse to consent to any partition being made of the said estate and premises between them and your orator, according to your orator's intent therein. **All which doings and doings** of the said confederates are contrary to equity and good conscience, and tend to the wrong and injury of your orator in the premises. **In tender consideration** whereof, and forasmuch as your orator cannot be fully relieved in the premises but by the aid of a court of equity, where matters of this nature are properly cognizable and relievable, **To the end therefore,** that the said defendants and their confederates, when discovered, may, upon their several and respective corporal oaths, full, true and perfect answer make to all and singular the matters aforesaid, as fully and particularly as if the same were here again repeated; and more especially, whether your orator and the said defendants, or either and which of them are not seised in fee-simple in possession as tenants in common in undivided fifth parts of and in the messuages, lands, hereditaments, and premises herein before mentioned, or what other interest and estates in particular have they, or either and which of them therein, and whether

whether the said estates and premises are not of the yearly value of ——— l. or thereabouts, or what other yearly value, and whether the title deeds and writings relating to the said estates, or some and which of them, are not now or lately, and when last was or were in the custody or power of the said defendants, or either and which of them by name, or where are the same, and what is become thereof, and whether the said defendants and your orator have not for some and what number of years past enjoyed the said estates in undivided fifth shares and parts as tenants in common, or how otherwise in particular, and whether your orator has not made and caused to be made such applications to the said defendants, or which of them, for the purpose aforesaid, or any other, and what applications in particular, and whether they have not refused to comply therewith, and if so, why so; and that a partition and division may be made of the said estates and premises by the said defendants and your orator in fifth parts and shares; and that a commission of partition may issue out of this honourable court, directed to proper commissioners for the purpose aforesaid, and that one fifth part of the said estate and premises may be allotted to your orator and his heirs, to be enjoyed by him and them in severalty; and that the said defendants may join in all proper deeds and acts for conveying the said fifth part thereof to your orator and his heirs, your orator being ready and willing to join in all proper acts for making and effecting such partition; or that your Honours will make such other order and decree in the premises, as the nature of his case may require, and as shall be agreeable to equity and good conscience. May it please, &c.

*Bill for a Transfer of trust Stock.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *A. B.* of, &c. widow, one of the children of *O. P.* late of, &c. deceased, and *H.* — his wife now also deceased (heretofore *H. H.*) your oratrix being also a legatee or appointee named in the respective wills of the said *O. P.* and *H.* his wife. That by a certain deed or indenture of three parts, made upon, and in contemplation of the marriage of the said *O. P.* with the said *H.* — his wife, (then *H. H.*) bearing date on or about the ——— day of ——— 1793, between the said *O. P.* of the first part, the said *H.* (then *H. H.*) afterwards the wife of the said *O. P.* of the second part,

part, and *Q. Q.* and *R. R.* of the third part. After reciting the said then intended marriage, the said *H. H.* did covenant within the time therein limited, in that behalf to transfer unto the said *Q. Q.* and *R. R.* the sum of 4000*l.* *South-sea* annuity stock, (which was transferred into their names accordingly) and it was thereby witnessed and agreed that such 4000*l.* *South-sea* annuity stock should be sold, and the money arising by sale thereof laid out in the purchase of freehold lands of inheritance which forthwith after the purchase thereof should be settled and conveyed to such uses, intents and purposes, and subject to such trusts, provisos and agreements as were therein limited, expressed and declared, of and concerning the same, and that until a convenient purchase could be found out, the money arising by the sale of such stock should be placed out at interest, upon some public or private security. And that all dividends, interest and proceed of such stock, and the money so to be placed out upon security should be paid to such persons, and in such manner and proportions as the yearly and other rents and profits of the lands so to be purchased would go and belong, that is to say, to the use and behoof of the said *H. H.* until the said then intended marriage, and from and after the solemnization thereof to the use of the said *O. P.* for the term of his natural life, remainder to trustees to preserve contingent remainders, remainder to the use of the said *H.* for her life, and from and immediately after the decease of the said *O. P.* and *H.* his then intended wife, and the longer liver of them, to the use and behoof of such child or children of the said *O. P.* on the body of the said *H.* his then intended wife, lawfully to be begotten, in such proportions, manner and form, and for such estate and estates as the said *O. P.* should by deed or writing under his hand and seal to be executed in manner therein mentioned in that behalf or by any other writing in the nature or purporting to be his last will and testament to be by him signed and sealed, in the presence of three or more credible witnesses direct or appoint, so as by such appointment all the said premises should be appointed to all, some, or one of the child or children of the said *O. P.* on the body of the said *H.* his then intended wife to be begotten, and the heirs and assigns of the said children, some or one of them in possession, and for default of such direction and appointment, to the use and behoof of such child and children of the said *O. P.* on the body of the said *H.* his then intended wife, lawfully to be begotten, and the heirs of the body and bodies of such child and children lawfully issuing, to be divided between them share and share alike as tenants in common and not as joint-tenants, with such benefit of survivorship as therein mentioned, and for default of all such issue to the use and behoof of the right heirs of the said *O. P.* for ever, as in and by such deed or indenture now in the custody or power of the



the defendants hereinafter some or one of them when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, That by a certain other indenture also of three parts, and made previous to and in contemplation of the said marriage, and between the same parties, after reciting that the said *O. P.* had transferred a like sum of 4000 *l. South-sea* annuity stock into the names of the said *Q. Q.* and *R. R.* by way of collateral security for the quiet enjoyment of certain freehold messuages, lands tenements and hereditaments, in a certain indenture of release and settlement of like date, and between the same parties mentioned and comprized according to such indentures. It was therefore and for the considerations therein mentioned witnessed, covenanted and agreed, that the said last mentioned sum of 4000 *l. South-sea* annuity stock should be sold, and the money arising by sale thereof, laid out in the purchase of some freehold lands of inheritance, which when purchased should be settled and conveyed upon trust, and to the intent and purpose therein mentioned; subject nevertheless to the lien and charge therein and thereby created, and that until a convenient purchase could be found out, the money arising by sale thereof should be placed out at interest upon some security, public or private, and the interest thereof be paid and received as by such last mentioned indenture is directed, and in and by virtue whereof the said *O. P.* is empowered to direct and appoint such last mentioned sum of 4000 *l. South-sea* annuity stock unto and among the issue of the said then intended marriage, in like manner as is hereinbefore mentioned, with respect to the said first mentioned sum of 4000 *l. South-sea* stock, as in and by such last mentioned deed or indenture, now in the custody also of some or one of the defendants after named, when the same shall be produced to this honourable court will also more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the said marriage between the said *O. P.* and *H. H.* afterwards took effect, and that there was issue of the said marriage who survived the said *O. P.* and *H.* his wife, four children only, namely, *I. P.* Esq. *O. P.* now the Reverend *O. P.* clerk, *M. P.* now *M. R.* widow and your oratrix, and no other issue who survived the said *O. P.* and *H.* his wife. And your oratrix further sheweth unto your Lordship, that the said *O. P.* the elder, departed this life on or about the ——— day of *October*, in the life-time of the said *H.* his wife, having first duly made and published his last will and testament in writing, and which was duly signed and sealed by him in the presence of and attested by three credible witnesses and bearing date the ——— day of ——— and thereby (among other things) after reciting or taking notice of the first hereinbefore mentioned indenture of settlement, and that the sum of  
4000 *l.*

4000*l.* *South-sea* stock therein mentioned had not then been sold out, he the said *O. P.* pursuant to the power reserved and lodged in him, by the said indenture did give and devise, direct and appoint the said 4000*l.* *South-sea* annuity stock and all dividends thereof until the same should be sold, and the money arising by sale thereof when sold, and the interest of such money when placed out upon security, and until a purchase should be made therewith, to and for the use of such child and children of him the said *O. P.* on the body of his said wife begotten and to be begotten, in such proportions, manner and form, and for such estate and estates as his said wife should by any deed or writing under her hand and seal, to be by her subscribed in the presence of two or more credible witnesses, or by her last will and testament in writing, or by any other writing, in the nature of, or purporting to be her last will and testament, to be by her signed and sealed in the presence of three or more credible witnesses direct or appoint, so as by such appointment all the said premises be appointed to all or some or one of the child or children of him the said *O. P.* on the body of his said wife, begotten and to be begotten, and the heirs of the body and bodies of such child and children lawfully issuing, to be divided between them share and share alike, as tenants in common and not as joint-tenants. And after further reciting or taking notice of the hereinbefore second and last mentioned deed or indenture of settlement, he the said testator did thereby give and devise, direct and appoint the said last mentioned *South-sea* annuity stock and all dividends thereof until the same should be sold, and after the same should be sold, the money arising by the sale thereof, and the interest of the same until laid out in a purchase of freehold lands, and after such purchase made, the messuages, lands, tenements and hereditaments purchased therewith, subject nevertheless and liable to the lien and charge thereon by virtue of the said last mentioned indenture, to and to the use of his said wife, for and during the term of her natural life, and from and after the determination of that estate, to the use and behoof of such child and children of him the said *O. P.* on the body of his said wife begotten and to be begotten, in such proportions manner and form, and for such estate and estates as his said wife should by any deed or writing, under her hand and seal to be by her subscribed, in the presence of two or more credible witnesses, or by her last will and testament in writing, or by any other writing in the nature of or purporting to be her last will and testament, in writing to be by her signed and sealed, in the presence of three or more credible witnesses, direct or appoint, so as by such appointment, the said *South-sea* annuities stock, and all dividends thereof, until the same should be sold, and after the same should be sold, the money arising by sale thereof, and the interest of the same, until

until laid out in the purchase of lands, and after a purchase made therewith, the messuages, lands, tenements, and hereditaments, purchased therewith, should be appointed to all or some or one of the child or children of him the said *O. P.* on the body of his said wife begotten, and to be begotten, and the heirs of the body and bodies of such child and children, lawfully issuing, to be divided between them, share and share alike, as tenants in common, and not as joint-tenants. And the said testator thereby appointed his said wife sole executrix, of his said will, as in and by the said will and the probate thereof, when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the said testator *O. P.* died without having revoked or altered his said will, or made any other direction or appointment, of or concerning the said two sums of 4000 *l.*, and 4000 *l. South-sea* annuities. And that the said *H. P.* his widow, soon afterwards proved his said will, in the prerogative court of the Archbishop of *Canterbury*. And your oratrix further sheweth unto your Lordship, that the said *H. P.* the said testator's widow, departed this life, on or about the — day — of having first duly made and published, her last will and testament in writing, which was duly signed and sealed by her, in the presence of and attested by three credible witnesses, and bearing date on or about the — day of — whereby amongst other things after reciting or taking notice, that under and by virtue of the aforesaid several indentures, and in and by the last will and testament, of her said late husband, some or one of them, she had several powers given to, and vested in her direction and appointment of and concerning 4000 *l. South-sea* annuity stock, covenanted to be afterwards transferred to the said *Q. Q.* and *R. R.* and of and concerning another sum of 4000 *l. South-sea* annuity stock, covenanted to be, and afterwards transferred to the said *Q. Q.* and *R. R.* she the said testatrix *H. P.* by virtue of, and in exercise and execution of the several powers in that behalf given, and her the said testatrix thereunto enabling, did give bequeath direct and appoint the said two several sums of 4000 *l.* and 4000 *l. South-sea* annuity stock, and which then stood in the joint names of *A. A.* and her two daughters, *Mrs. B.* and *Mrs. C.* unto and to the use of her the said testatrix's sons *I. P.* and *O. P.* and her daughter, your oratrix, their executors, administrators, and assigns, to be equally divided between them, share and share alike, to take as tenants in common, and not as joint-tenants, and the said testatrix thereby appointed *S. S.* of, &c. and her sons *I. P.* and *O. P.* executors of her said will, and the said testatrix afterwards made a codicil to her



4000*l.* *South-sea* stock therein mentioned had not then been sold out, he the said *O. P.* pursuant to the power reserved and lodged in him, by the said indenture did give and devise, direct and appoint the said 4000*l.* *South-sea* annuity stock and all dividends thereof until the same should be sold, and the money arising by sale thereof when sold, and the interest of such money when placed out upon security, and until a purchase should be made therewith, to and for the use of such child and children of him the said *O. P.* on the body of his said wife begotten and to be begotten, in such proportions, manner and form, and for such estate and estates as his said wife should by any deed or writing under her hand and seal, to be by her subscribed in the presence of two or more credible witnesses, or by her last will and testament in writing, or by any other writing, in the nature of, or purporting to be her last will and testament, to be by her signed and sealed in the presence of three or more credible witnesses direct or appoint, so as by such appointment all the said premises be appointed to all or some or one of the child or children of him the said *O. P.* on the body of his said wife, begotten and to be begotten, and the heirs of the body and bodies of such child and children lawfully issuing, to be divided between them share and share alike, as tenants in common and not as joint-tenants. And after further reciting or taking notice of the hereinbefore second and last mentioned deed or indenture of settlement, he the said testator did thereby give and devise, direct and appoint the said last mentioned *South-sea* annuity stock and all dividends thereof until the same should be sold, and after the same should be sold, the money arising by the sale thereof, and the interest of the same until laid out in a purchase of freehold lands, and after such purchase made, the messuages, lands, tenements and hereditaments purchased therewith, subject nevertheless and liable to the lien and charge thereon by virtue of the said last mentioned indenture, to and to the use of his said wife, for and during the term of her natural life, and from and after the determination of that estate, to the use and behoof of such child and children of him the said *O. P.* on the body of his said wife begotten and to be begotten, in such proportions manner and form, and for such estate and estates as his said wife should by any deed or writing, under her hand and seal to be by her subscribed, in the presence of two or more credible witnesses, or by her last will and testament in writing, or by any other writing in the nature of or purporting to be her last will and testament, in writing to be by her signed and sealed, in the presence of three or more credible witnesses, direct or appoint, so as by such appointment, the said *South-sea* annuities stock, and all dividends thereof, until the same should be sold, and after the same should be sold, the money arising by sale thereof, and the interest of the same, until

until laid out in the purchase of lands, and after a purchase made therewith, the messuages, lands, tenements, and hereditaments, purchased therewith, should be appointed to all or some or one of the child or children of him the said *O. P.* on the body of his said wife begotten, and to be begotten, and the heirs of the body and bodies of such child and children, lawfully issuing, to be divided between them, share and share alike, as tenants in common, and not as joint-tenants. And the said testator thereby appointed his said wife sole executrix, of his said will, as in and by the said will and the probate thereof, when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the said testator *O. P.* died without having revoked or altered his said will, or made any other direction or appointment, of or concerning the said two sums of 4000 *l.*, and 4000 *l. South-sea* annuities. And that the said *H. P.* his widow, soon afterwards proved his said will, in the prerogative court of the Archbishop of *Canterbury*. And your oratrix further sheweth unto your Lordship, that the said *H. P.* the said testator's widow, departed this life, on or about the — day — of having first duly made and published, her last will and testament in writing, which was duly signed and sealed by her, in the presence of and attested by three credible witnesses, and bearing date on or about the — day of — whereby amongst other things after reciting or taking notice, that under and by virtue of the aforesaid several indentures, and in and by the last will and testament, of her said late husband, some or one of them, she had several powers given to, and vested in her direction and appointment of and concerning 4000 *l. South-sea* annuity stock, covenanted to be afterwards transferred to the said *Q. Q.* and *R. R.* and of and concerning another sum of 4000 *l. South-sea* annuity stock, covenanted to be, and afterwards transferred to the said *Q. Q.* and *R. R.* she the said testatrix *H. P.* by virtue of, and in exercise and execution of the several powers in that behalf given, and her the said testatrix thereunto enabling, did give bequeath direct and appoint the said two several sums of 4000 *l.* and 4000 *l. South-sea* annuity stock, and which then stood in the joint names of *A. A.* and her two daughters, *Mrs. B.* and *Mrs. C.* unto and to the use of her the said testatrix's sons *I. P.* and *O. P.* and her daughter, your oratrix, their executors, administrators, and assigns, to be equally divided between them, share and share alike, to take as tenants in common, and not as joint-tenants, and the said testatrix thereby appointed *S. S.* of, &c. and her sons *I. P.* and *O. P.* executors of her said will, and the said testatrix afterwards made a codicil to her

said will, thereby giving certain specific legacies, but in no ways affecting the aforesaid appointment, of the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, as in and by the said will and codicil, and the probate thereof when the same shall be produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that the said testatrix *H. P.* died without having revoked or altered her said will and codicil, and without having made any other direction or appointment, of or concerning the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, or either of them, than as before stated, and that on or about the ——— day of ——— the said *I. P.* and *O. P.* two of the executors named in the said will, duly proved the same, in the prerogative court of the Archbishop of *Canterbury*, the said *S. S.* the other executor declining to prove the same. And your oratrix further sheweth unto your Lordship, that the said *Q. Q.* and *R. R.* the trustees named in the two several deeds or indentures before stated are long since dead, and that the said *R. R.* was the survivor of them, and that *T. T.* of, &c. widow and *U. U.* wife of, &c. are the surviving legal personal representatives of the said *R. R.* deceased, the said surviving trustee, and that the said two several trust sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, have never been sold out, but now remain in the books of the *South-sea* Company, and are standing in the names of the said *T. T.* and *U. U.* upon the trusts aforesaid. And your oratrix further sheweth unto your Lordship; that under and by virtue of the aforesaid two several indentures of settlement, and wills or appointments of the said testator *O. P.* and testatrix *H. P.* your oratrix became and is intitled unto one moiety or half part of the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, and of the interest and dividends thereof, accrued and become due from the time of the death of the said testatrix, *H. P.* And your oratrix further sheweth that being so intitled she hath frequently by herself and her agents, in a friendly manner, applied and caused divers applications to be made, to the said *T. T.* and *U. U.* requesting them to transfer unto your oratrix, one full and equal moiety or half part of the said two several trust sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, and also to account for and pay unto your oratrix, one moiety or half part of the interest and dividends received and accrued due thereon, from the time of the decease of the said testatrix. And your oratrix well hoped, that such her reasonable request would have been complied with, as in justice and equity the same ought to have been. But now so it is, may it please your Lordship, That the said *T. T.* and *U. U.* combining



combining and confederating together, and to and with the said *J. P.* and *O. P.* and to and with divers other persons at present unknown to your oratrix, (whose names when discovered, your oratrix prays she may be at liberty to insert, in this her bill of complaint, with apt matter to charge them withall as parties defendants thereto) and contriving how to wrong and injure your oratrix in the premises, they the said defendants *T. T.* and *U. U.* absolutely refuse to comply with such your oratrix's just and reasonable requests, sometimes pretending, that no such deeds or indentures as herein before mentioned and set forth, were ever made or entered into, and executed, and which they will at other times admit, but then they pretend that no such wills or appointments as herein before stated, were ever made or executed by the said testator *O. P.* and the said testatrix *H. P.* respectively as hereinbefore stated, were ever made or executed by the said testator *O. P.* and the said testatrix *H. P.* respectively as hereinbefore stated; whereas your oratrix expressly charges the contrary of all such pretences to be true, and that the said testator *O. P.* and the said testatrix *H. P.* did respectively duly make such several wills and appointments of and concerning the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, as hereinbefore stated and set forth, and that the same were respectively executed by them in the manner and with all the requisites in that behalf prescribed and required; nevertheless the said defendants, or some of them, and particularly the said defendants *T. T.* and *V. V.* give out and pretend that the said wills or appointments, or one of them, are or is defective or deficient in some respect or particular (but which they refuse to discover or set forth); and they they the said defendants *J. P.* and *O. P.* severally set up or claim some right or interest in or to the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, and under such or the like pretences as aforesaid, or others equally frivolous and unjust, the said defendants *T. T.* and *V. V.* refuse to transfer to your oratrix a moiety of the said trust sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, and to pay to or account with her for a moiety of the interest and dividends thereof, from the time of the death of the testatrix *H. P.* and the said defendant *O. P.* although he claims to be interested in and intitled with your oratrix to the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, in equal moieties under and by virtue of the wills and appointments aforesaid, nevertheless refuses to join with your oratrix in this suit; all which actings, doings, and pretences of the said confederates, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your oratrix. **In tender con-**

consideration whereof, and forasmuch as your oratrix is remediless in the premises, at and by the strict rules and practice of the common law, and cannot have adequate relief therein, save in a court of equity where matters of this nature are properly cognizable and relievable; to the end therefore that the said several defendants, and the rest of the confederates when discovered may, upon their several and respective corporal oaths, full, true, direct and perfect answers make to all and singular the several matters and things herein and hereby charged, alledged, mentioned and inquired after, according to the best and utmost of their respective knowledge, remembrance, information and belief, and that as fully and particularly were here again repeated, and they were thereunto respectively interrogated, and more especially that they the said defendants may in manner aforesaid severally answer and set forth whether such two several deeds or indentures of such respective dates between such parties, and of or to such or the like purport or effect respectively as herein before for that purpose stated and set forth, as far as the same are respectively set forth, were not entered into and duly executed, upon or in contemplation of the marriage of the said *O. P.* deceased and *H.* his wife, or some other and what deeds or indentures, deed or indenture of some other, and what dates or date between some other and what parties, and of or to some other and what purport or effect respectively in particular or how otherwise; and whether the said marriage between the said *O. P.* and *H. P.* did not afterwards take effect; and whether there were not issue of the said marriage that survived the said *O. P.* deceased and *H.* his wife, such four children only as hereinbefore in that behalf mentioned, or any other and what issue; and whether the said *O. P.* the elder did not depart this life at or about the time hereinbefore in that behalf mentioned, or at some other time and when; and whether he did not before his death duly make and publish such his last will and testament in writing, of such date, and to such or the like purport and effect; and whether such will was not duly executed and attested in such manner and form as hereinbefore in that behalf mentioned, or how and in what respect otherwise; and whether the said testator *O. P.* did revoke or in any and what respect alter his said will as to the appointment and direction therein contained as herein before stated; and whether he did ever and when and how and in what manner make any and what other direction or appointment of or concerning the said two sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, or either and which of them; and whether the said *H. P.* did not survive him the said testator *O. P.* and did not duly prove his said will in manner aforesaid, or how otherwise; and whether she the said *H. P.* did not depart this life

or about the time hereinbefore in that behalf mentioned, or at some other time and when; and whether she did not before her death duly make and publish her last will and testament in writing of such date and to such or the like purport or effect as hereinbefore in that behalf stated and set forth (as far as the same is set forth) or some other and what will of some other, and what date and to some other and what purport or effect, and whether the same was not executed and attested in such manner and form as hereinbefore for that purpose mentioned, or how and in what respect otherwise; and whether she the said testatrix did ever and when and how and in what manner make or execute any and what other direction or appointment of or concerning the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, or either and which of them; and whether the said defendants *J. P.* and *O. P.* did not duly prove the said will of the said testatrix *H. P.* in manner aforesaid, or how otherwise; and whether the said other executor did not decline to prove the same, or how otherwise; and whether the said *Q. Q.* and *R. R.* the trustees named in the said two several deeds or indentures are not respectively long since dead; and whether the said *R. R.* was not the survivor of them; and whether the said *T. T.* and *V. V.* are not and how become the legal personal representatives or representative of him the said *R. R.* and whether the said two several trust sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, or either and which of them, or any and which parts or part thereof respectively have or hath been and when and by whom sold out or transferred, and why and for what reason; and whether the same do not respectively remain standing in the books of the said company in the names of the said defendants *T. T.* and *V. V.* or in any and what other names or name, and upon the trusts before mentioned or how otherwise; and whether under and by virtue of the aforesaid two several indentures of settlement and the said two wills or appointments, or some and which of them, or how otherwise your oratrix did not become and is not intitled unto one moiety or half part, or to any and what other part or share of the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock; and also to one moiety or half part, or any other and what part or share of the interest and dividends accrued due thereon from the time of the death of the said testatrix *H. P.* or how and for what reason otherwise; and whether your oratrix hath not made or caused to be made to the said defendants *T. T.* and *V. V.* one and which of them such applications and for such purposes as hereinbefore in that behalf mentioned, or some other and what applications, and for some other and what purposes; and whether they do not, and for what reason refuse to comply therewith; and whether



ther the said several defendants, or some and which of them do not make such pretences as aforesaid, or some and which of them, or some other and what pretences, and upon what grounds and foundations respectively; and particularly, that they the said defendants may in manner aforesaid severally answer and set forth whether the said testator *O. P.* and the said testatrix *H. P.* did not duly respectively make such several wills and appointment of and concerning the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock as hereinbefore stated and set forth; and whether the same were not respectively executed by them the said testator and testatrix in the manner and with all the requisites in that behalf prescribed and required, or how and in what respect, and for what reason otherwise respectively; and if the said defendants, or any or either of them, shall pretend that the said wills or appointments, or either of them, are or is defective or deficient in any respect in particular, then that they may severally set forth in what respect or particular the same or either and which of them are or is so defective or deficient, and how they severally make out the same; and that the said defendants *J. P.* and *O. P.* may severally set forth whether they or any or either and which of them do or doth make or set up any claim or interest in or to the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, or either and which of them, and how they respectively make out and derive the same; and whether the said defendant *O. P.* doth not claim such right and interest in and to the said trust monies and premises as before mentioned, or how otherwise; and whether he doth not and for what reason refuse to join your oratrix in this suit; and that the said defendants may severally answer the premises and matters aforesaid; and that your oratrix may be declared to be intitled under and by virtue of the aforesaid two several indentures and wills or appointments of the said testator *O. P.* and testatrix *H. P.* unto one full moiety or half part of the said two several sums of ——— *l.* and ——— *l.* *South-sea* annuity stock, and of the interest and dividends accrued due respectively from the time of the death of the said testatrix *H. P.* And that the said defendants *T. T.* and *V. V.* may be decreed accordingly to transfer to your oratrix one full moiety or half part of the said two several sums of 4000 *l.* and 4000 *l.* *South-sea* annuity stock, and to account for and pay to your oratrix one full moiety or half part of the interest and dividends thereof respectively accrued and become due from and since the time of the decease of the said testatrix *H. P.* And that your oratrix may have and receive all such further and other relief in the premises as the nature and circumstances of the case may require, and as shall

shall be agreeable to equity and good conscience. May it please your Lordship, &c.

*A Bill for transferring Stock into the Name of the Accountant General.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *A. B.* of ——— in the county of ——— the widow and relict of *B. B.* late of, &c. gentleman, your oratrix's late husband deceased, *D. D.* of, &c. and *E. E.* of, &c. That the said *B. B.* being at his death possessed of a large personal estate, duly made his will dared the — day of —, and he thereby amongst other things gave and bequeathed, after payment of all his just debts, funeral expences and testamentary charges and expences, unto his wife your oratrix *A. B.* the dividends, interest and produce of all his monies in the public funds, and elsewhere, at interest for and during the term of her natural life; and from and after the decease of your oratrix, the said testator gave and bequeathed the said monies, stocks and funds unto *F. F.* of, &c. gentleman, his executors and administrators, to and for his and their own use and benefit; and the said testator appointed your oratrix and the said *F. F.* executrix and executor of his said will as in and by the probate of the said will, when the same shall be produced to this honourable court will more fully and at large appear: And your oratrix and orator further shew unto your Lordship, that the said testator *B. B.* afterwards (that is to say) on or about the — day of — departed this life without having revoked or altered his said will, and leaving your oratrix his widow and the said *F. F.* him surviving, who shortly afterwards proved the said will in the prerogative court of the Archbishop of *Canterbury*, as by the probate thereof when produced to this honourable court will appear: And your oratrix and orators further shew unto Lordship, that part of the said testator's property consisted of the sum of 10,000 *l.* 3 per centum, bank annuities 1726, which was standing in his name in the books of the Governor and Company of the Bank of *England*, at the time of his decease: And your oratrix and orators further shew, that the said *F. F.* being intituled to the reversion or remainder of the said 10,000 *l.* 3 per centum bank annuities 1726, under or by virtue of the said recited will of the said testator, in whose name the same now stands in the books of the Governor and Company of the Bank of *England*, expectant

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upon the death of your oratrix, caused such his reversionary interest in the said ——— *l.* 3 *per centum* bank annuities, to be put up to sale by auction on the ——— day of ——— at *Garraway's Coffee-house, Exchange Alley, London*, by Messrs. O. and P. and that your orator the said *D. D.* was the highest bidder at such auction, having bid for the same the sum of ——— *l.* and paid a deposit into the hands of the auctioneers: And your oratrix and orators further shew unto your Lordship, that your orator the said *D. D.* so purchased the said reversionary interest for and on behalf of himself and your orator the said *E. E.* for their mutual benefit, equally share and share alike, as tenants in common and not as joint-tenants: And your oratrix and orators further shew unto your Lordship, that the said 10,000 *l.* 3 *per cent.* bank annuities, having been by mistake described in the printed particulars of sale to be ——— *l.* 3 *per centum* consolidated bank annuities, your orators the said *D. D.* and *E. E.* claimed an abatement in the said purchase-money, in as much as the 3 *per centum* bank annuities 1726, are of less value than the 3 *per centum* consolidated bank annuities; whereupon it was agreed by and between the said *F. F.* and your orators the said *D. D.* and *E. E.* that the said sum of ——— *l.* so bid as aforesaid, should be reduced to the sum of ——— *l.* And your oratrix and orators further shew unto your Lordship, That by a certain indenture of assignment made between the said *F. F.* of the one part, and your orators the said *D. D.* and *E. E.* of the other part, bearing date on or about the ——— day of ——— after reciting the before mentioned will and purchase, and that the said purchase was made for the mutual benefit of your orators the said *D. D.* and *E. E.* as tenants in common, and not as joint tenants. It is witnessed that for and in consideration of the sum of ——— *l.* to him the said *F. F.* in hand well and truly paid by your orators the said *D. D.* and *E. E.* he the said *F. F.* did thereby assign transfer and set over unto your orators the said *D. D.* and *E. E.* their executors, administrators, and assigns, the said sum of ——— *l.* three *per centum* bank annuities, 1726, and all his right and interest therein, from and after the decease of your oratrix, the said *A. B.* as in and by the said indenture of assignment when the same shall be produced to this honourable court will more fully and at large appear. And your oratrix and orators further shew unto your Lordship, that in order the better to secure the respective interests of your oratrix and orators, in the said ——— *l.* three *per centum* bank annuities the said *F. F.* at the time of the sale thereof, promised and agreed to procure a transfer thereof, into the joint names of your oratrix, and orators, which he now refuses, although requested so to do.

And



And your oratrix and orators well hoped, that such their reasonable request, would have been complied with, as in justice and equity the same ought to have been. **But now so it is,** may it please your Lordship, That the said *F. F.* combining and confederating himself together, to and with the said governor and company of the Bank of *England*, and to and with divers other persons at present unknown to your oratrix and orators, whose names when discovered, your oratrix and orators pray they may be at liberty to insert in this their bill of complaint, with apt matter to charge them as parties, defendants hereto, and contriving how to wrong and injure your oratrix, and orators, in the premises, he the said defendant *F. F.* absolutely refuses to comply with such your oratrix and orators just and reasonable request, sometimes pretending that he the said *F. F.*'s reversionary interest in the said — *l.* three *per centum* Bank annuities, is worth considerably more than the said sum of — *l.* so agreed to be given and paid by your orators the said *D. D.* and *E. E.* for the same as aforesaid. And that the same was unfairly purchased by them. And that he did not promise and agree to procure such transfer as aforesaid. Whereas your oratrix and orators expressly charge the contrary of such pretences to be true. And that the said — *l.* three *per centum* Bank annuities, were fairly and honestly purchased by them, and ought to be transferred according to the before mentioned agreement. Nevertheless the said defendants or some of them, and particularly the said defendants the Governor and Company of the Bank of *England*, give out and pretend that the said will of the said testator, is defective or deficient in some respect or particular, (but which they refuse to discover or set forth,) and that they cannot legally permit a transfer of the said — *l.* three *per centum* Bank annuities, till after the decease of your oratrix the said *A. B.* and under such or the like pretences as aforesaid, or others equally frivolous and unjust; the said defendant *F. F.* refuses to procure such transfer so requested as aforesaid. And the said other defendants, the Governor and Company of the Bank of *England*, refuse to permit a transfer of the said — *l.* three *per centum* Bank annuities, into the names of your oratrix and orators, for the purposes aforesaid; all which actings doings and pretences of the said confederates, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your oratrix and orators, **In tender consideration whereof,** and inasmuch as your oratrix and orators are remediless in the premises, at and by the strict rules and practice of the common law, and cannot have adequate relief therein, save in a court of equity, where matters of this nature, are properly cognizable and relievable. **To the end therefore** that the said several defendants, and the rest

rest of the confederates, when discovered may upon their several and respective corporal oaths, full, true, direct, and perfect answers make, to all and singular the several matters, and things herein, and hereby charged, alledged, mentioned and inquired after, according to the best and utmost of their respective knowledge, remembrance, information and belief, and that as fully and particularly as if the same were here again repeated, and they were thereunto respectively interrogated. And more especially that they the said defendants, may in manner aforesaid, severally answer and set forth, whether the said *B. B.* did not depart this life, at or about the time hereinbefore in that behalf mentioned or at some other time, and when; and whether he did not before his death, duly make and publish such his last will in writing of such date, and to such or the like purport or effect, as hereinbefore in that behalf mentioned and set forth, (as far as the same is set forth) or some other and what will of some other, and what date, and to some other and what purport or effect. And whether such will was not duly made in such manner, and form as hereinbefore in that behalf mentioned, or how and in what respect otherwise. And whether the said testator *B. B.* did revoke, or in any and what respect, alter his said will. And whether your oratrix, and the said defendant *F. F.* did not duly prove his said will in manner aforesaid, or how otherwise. And whether the said sum of — *l. three per centum* Bank annuities, doth not now remain standing in the books of the said defendants, the Governor and Company of the Bank of *England*, in the name of the said testator *B. B.* or in any, and what other name or names. And whether under and by virtue of the aforesaid will, or how otherwise, your oratrix did not become, and is not intitled unto the dividends of the said — *l. three per centum* Bank annuities, for and during the term of her natural life, or how and for what reason otherwise. And whether the said defendant *F. F.* is not intitled to such reversionary interest in the said — *l. three per cent.* bank annuities as aforesaid or how otherwise. And whether the said defendant *F. F.* did not put his said reversionary interest up to sale by auction, at such time, and place hereinbefore mentioned. And whether your orator the said *D. D.* did not bid for the same, at such sale, and was the highest bidder for the same, at or for the price or sum of — *l.* or how otherwise. And whether a deposit was not paid into the hands of the auctioneer, at the time of such sale. And whether the said reversionary interest was not so purchased by your orator the said *D. D.* for and on behalf of himself and your orator the said *E. E.* for their mutual benefit, or how otherwise. And whether the said — *l. three per centum* Bank annuities, were not by mistake described in the  
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printed particular of sale to be — *l.* three *per centum* consolidated Bank annuities: And whether the three *per centum* Bank annuities, of the year 1726, are not of less value than the three *per centum* consolidated Bank annuities. And for such or what other reason your orator the said *D. D.* and *E. E.* did not claim such abatement as aforesaid. And whether it was not agreed that the said sum of — *l.* so bid as aforesaid, should be reduced to the sum of — *l.* which was to be the real price or sum to be given for the said reversionary interest, or how otherwise. And whether the said *F. F.* did not by such indenture of assignment, before in part recited, assign his said reversionary interest to your orators, the said *D. D.* and *E. E.* in manner aforesaid, or how otherwise; and whether the said *F. F.* for the reasons aforesaid, did not promise and agree to procure such transfer as aforesaid, or how otherwise. And whether your oratrix and orators, have not made or caused to be made to the said defendants *F. F.* and the Governor and Company of the Bank of *England*, or one and which of them, such applications and for such purposes as hereinbefore in that behalf mentioned, or some other and what applications, and for some other and what purposes: and whether they do not, and for what reason, refuse to comply therewith: and whether the said several defendants, or some and which of them, do not make such pretences as aforesaid, or some and which of them, or some other and what pretences, and upon what grounds and foundations respectively. And that the said defendants may severally answer the premises, and matters aforesaid: and that your orators the said *D. D.* and *E. E.* may be declared to be *bona fide* purchasers, for a good and valuable consideration, of all the right, title, and interest, of the said defendant *F. F.* in and to the said — *l.* three *per cent.* Bank annuities, expectant on the death of your oratrix, and to be well intitled thereto in equal moieties, and that the said defendants, may be decreed to transfer the said — *l.* three *per centum* Bank annuities, into the name of the accountant general of this court, in trust for your oratrix and orators, and that the yearly interest and dividends thereof, may by the order of this honourable court, be paid to your oratrix, during her natural life. And that after the said — *l.* three *per centum* Bank annuities, are so transferred into the name of the accountant general of this court, no subsequent transfer thereof may be made, or of any part thereof, or any order made for that purpose, without notice to be first given to your oratrix and orators. And that at any time immediately after the death of your oratrix, your orators the said *D. D.* and *E. E.* may be at liberty either in their own names, or in the name of the said defendant *F. F.* to apply to this honourable court, for  
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a transfer to be made to them of the said — *l.* three *per centum* Bank annuities, according to their respective interests therein, without giving notice of such application, to the said defendant *F. F.* his executors or administrators; and that the same may be transferred to them accordingly. And that your oratrix and orators may have and receive all such further and other relief in the premises, as the nature and circumstances of the case may require, and as shall be agreeable to equity and good conscience. May it please, &c.

*A Bill of Foreclosure.*

*To the Right Honourable, &c.*

**H**UMBLY complaining, sheweth unto your Lordship, your oratrix *A. B.* of, &c. in the county of, &c. widow and administratrix of *B. B.* late of ———— aforesaid deceased, That *C. C.* of ———— in the said county of ———— being or pretending to be seised in fee, and possessed, or otherwise well intitled, to him and his heirs, of, in, and unto the messuage or tenement, and premises hereinafter mentioned, and having occasion for a sum of money, did apply to the said *B. B.* to advance and lend him the sum of — *l.* and in order to secure the repayment of the same, with interest at and after the rate of 5 *l. per centum, per annum*, did propose to mortgage to the said *B. B.* the said messuage or tenement, and premises, of which he was seised in fee, as herein before mentioned, and which said premises he alledged were free from all incumbrances; and your oratrix further sheweth unto your Lordship, that the said *B. B.* accordingly complied with the request of the said *C. C.* and did on or about the — day of ———— lend him the sum of — *l.* and for the securing the repayment thereof, with such interest as aforesaid, the said *C. C.* by a certain indenture of demise and assignment, by way of mortgage, bearing date the — day of ————, and made or mentioned to be made between the said *C. C.* and *D.* his wife, of the one part, and the said *B. B.* of the other part, reciting that the said *C. C.* was seised in fee, of the messuage or tenement, and premises therein, and hereinafter mentioned to be demised and further reciting, that the said *C. C.* did by a certain bond, bearing even date therewith become bound to the said *B. B.* in the penal sum of — *l.* conditioned for the payment of — *l.* and interest, at the day and time in the said bond mentioned. It was  
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and is by the said indenture witnessed, that for the considerations therein mentioned to the said *C. C.* in hand paid, he the said *C. C.* did grant, bargain, sell, and demise unto the said *B. B.* his executors, administrators, and assigns, all that, &c. to hold unto the said *B. B.* his executors, administrators, and assigns, from the day next before the day of the date of the said indenture, for the term of 500 years, at and under the rent of one pepper corn, on the feast day of the nativity of Saint *John* the Baptist, in every year, with a proviso that if the said *C. C.* his heirs, executors, and administrators, should, well and truly pay, or cause to be paid unto the said *B. B.* his executors, administrators, and assigns, at a certain place in the said indenture mentioned the full and just sum of — *l.* of lawful money of *Great Britain*, with interest for the same, at and after the rate of *5 l. per centum per annum* on or before the — day of — without any deduction, defalcation or abatement whatsoever out of the same, or any part thereof, for or in respect of any taxes, assessments, rates, or improvements whatsoever, assessed or imposed, or then after to be assessed or imposed by authority of parliament, or otherwise howsoever, upon the thereby demised and assigned premises, or any part thereof, or for or in respect of any other matter or thing whatsoever; that then, from and immediately after such payment so made as aforesaid, the said indenture and the term and estate thereby made and granted, should cease, determine, and become void, to all intents and purposes whatsoever, any thing therein contained, to the contrary thereof, in any wise notwithstanding. And the said *C. C.* by the said indenture, for himself, his heirs, executors, administrators, and assigns, did covenant promise and agree, to and with the said *B. B.* his executors, administrators and assigns, that he the said *C. C.* his heirs, executors, administrators, and assigns, should and would, well and truly pay or cause to be paid unto the said *B. B.* his executors, administrators or assigns, the said sum of — *l.* together with such lawful interest as aforesaid, at the place, and on the day in the said indenture mentioned, for the payment thereof, and according to the true intent and meaning of the said indenture, without any deduction, defalcation or abatement whatsoever, as in and by the said indenture, when produced to this honourable court, will more fully and at large appear. And your oratrix further sheweth unto your Lordship, that for the further securing the repayment of the said sum of *l.* — and interest, the said *C. C.* duly executed to the said *B. B.* his warrant of attorney, bearing even date with the said indenture of demise, to confess judgment for the sum of — *l.* And your oratrix further sheweth unto your Lordship, that by and under

an act of parliament, passed in the 25th year of the reign of his present majesty, and in the year of our Lord, for the inclosure of certain commons, and waste lands in the said parish of ——— in the county of ——— an acre of land was allotted in respect of the said mortgaged premises, and is now in the possession of the said C. C. And your oratrix further sheweth unto your Lordship, that the said sum of ——— l. or any part thereof, was not paid to the said B. B. or any other person on his account, according to the said proviso, in the said indenture of mortgage, mentioned at the time therein mentioned, or at any other time in the life-time of the said B. B. or at any time since. And your oratrix further sheweth unto your Lordship, that on or about the ——— day of ——— the said B. B. departed this life, leaving your oratrix his widow, and next of kin, him surviving. And your oratrix, as his next of kin, as aforesaid, hath obtained letters of administration of his estate and effects, to be granted to her, by and out of the proper ecclesiastical court, in the Archdeaconry of *Wilts*, and is thereby become his legal personal representative, and as such become intitled to have the said sum of ——— l. and interest paid to her. And your oratrix further sheweth unto your Lordship, that the said sum of ——— l. or any part thereof hath not been paid to your oratrix, or to any other person, on her account, and the same now remains due, and owing to your oratrix, together with an arrear of interest thereon, and thereby the said term granted to the said B. B. hath become absolute in law in your oratrix as his administratrix as aforesaid: And your oratrix well hoped that the said C. C. would either have paid your oratrix the said sum of ——— l. and the interest for the same after the rate aforesaid, or would have permitted your oratrix to have peaceably and quietly held and enjoyed the said premises for the said term of 500 years; and for that purpose your oratrix hath frequently by herself and agents applied to the said C. C. and in a friendly manner requested him to pay the said sum of ——— l. and the interest now due thereon, or else peaceably and quietly deliver up possession to your oratrix of the said mortgaged premises, together with all deeds, evidences and writings relating to or concerning the same; and to release all his right, title, and equity of redemption of, in, and to the said premises for the residue of the said term of 500 years, to your oratrix, her executors, administrators and assigns, he the said C. C. well knowing as the truth is, that the said premises are a very slender and scanty security for the principal and interest now due to your oratrix thereon: And your oratrix well hoped, that the said C. C. would have complied with such the reasonable requests of your oratrix



oratrix as in justice and equity he ought to have done. But now so it is, may it please your Lordship, that the said C. C. combining and confederating himself to and with divers other persons at present unknown to your oratrix, whose names when discovered your oratrix prays she may be at liberty to insert herein as parties, defendants hereto, contriving how to wrong and injure your oratrix in the premises; he the said C. C. sometimes pretends that he never made and executed such indenture of mortgage as aforesaid, the contrary whereof your oratrix charges to be true, and so the said confederate will sometimes admit, but then he gives out and pretends that he hath confessed judgments, statutes, and recognizances, to several persons in several considerable sums of money; and several other grants, conveyances, and secret incumbrances which will affect the said premises prior to your oratrix's title to the same, but refuses to discover the same, or to whom he hath sold, mortgaged, or incumbered the premises aforesaid, or the respective considerations and conditions thereof, or the persons to whom he hath confessed such judgments, statutes, and recognizances, or for what sum or sums, and for what considerations, so that your oratrix cannot proceed at law for the recovery of the said mortgaged premises; whereas your oratrix charges that such conveyances, mortgages, and other incumbrances, (if any such there be) are not prior to your oratrix's said mortgage, or if any of them are prior to your oratrix's said mortgage (which your oratrix does not admit) the same are voluntary and fraudulent, and made without any consideration really and truly paid for the same; and such judgments, statutes, and recognizances, were not for the payment of any just debts, but without any consideration, and voluntary and contrived on purpose to defraud your oratrix of her principal and interest due on the said mortgage, and thereby he sets your oratrix at defiance; and at other times the said C. C. pretends that the said mortgage hath been paid off and satisfied; whereas your oratrix charges that the said mortgage-money hath never been paid or satisfied, but that the same still remains due with an arrear of interest; and at other times, the said C. C. insists that no interest has been paid on the said mortgage for more than 20 years prior to filing your oratrix's bill, and therefore that the same is to be considered as satisfied; whereas your oratrix charges, that if no interest had been paid on the said mortgage for 20 years, prior to filing your oratrix's said bill, yet that the said C. C. has repeatedly, and in the presence of several persons, within 20 years last past, acknowledged that the said mortgage money was still due and owing from him to the said intestate, and hath promised the said intestate in his life-time, and your oratrix since his decease, to pay off the said mortgage, and to pay and satisfy

satisfy the interest due thereon, but which he now refuses to do; all which actings, doings, and pretences of the said C. C. and his confederates, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your oratrix. In tender consideration whereof, and forasmuch as your oratrix is remediless in the premises at and by the strict rules of the common law, and only relievable in a court of equity where matters of this nature are properly cognizable and relievable. **To the end therefore,** that the said C. C. and his confederates, when discovered, may upon their several and respective corporal oaths, according to the best and utmost of their several and respective knowledge, information and belief, full, true, perfect and distinct answer make to all and singular the matters hereinbefore mentioned, as fully, particularly, and distinctly, as if the same were here again repeated, and they and each of them thereunto distinctly interrogated, and more especially that they may answer and set forth, in manner aforesaid, whether he the said C. C. did not pretend to be seised of or well intitled unto the messuage or tenement and premises hereinbefore for that purpose particularly mentioned; and whether he had not occasion for a particular sum of money; and whether he did not apply to the said deceased to advance and lend him the sum of ——— l. or some other and what sum of money; and whether, in order to secure the re-payment of the same with interest at 5 l. *per centum*, or at some other, and what rate of interest, he did not propose to mortgage to the said B. B. the said messuage or tenement and premises of which he was seised in fee as aforesaid; and whether the said B. B. did not comply with the request of the said C. C. and whether the said B. B. did not accordingly lend him the sum of ——— l. or any other and what sum of money; and whether for securing the repayment thereof with interest at the rate of 5 l. *per centum* as aforesaid such indenture of mortgage, with such recital and of such date between such parties, and of such purport and effect as hereinbefore in that behalf is particularly mentioned, or any other indenture of any other and what date between any other and what parties, or to any other and what purport and effect was not duly made and executed, and whether the said C. C. did not duly execute to the said B. B. such warrant of attorney as hereinbefore mentioned for securing the repayment of the said ——— l. with interest at 5 l. *per centum*; and whether the said sum of ——— l. or any and what part thereof, was not lent and advanced by the said B. B. to the said C. C. and whether such act of parliament as hereinbefore mentioned did not pass at or about the time hereinbefore mentioned or some other and what time, and whether some and what portion of land was not thereby allotted in respect of the said mortgaged premises, and whether

whether the same is not now in the possession of the said, *C. C.* and whether such portion of land is not included in the said mortgage, or is not a security for the said mortgage money, and whether the said sum of — *l.* or any part thereof, was paid to the said *B. B.* during his life-time, or to any other person on his account, and whether the said *B. B.* did not depart this life intestate at or about the time hereinbefore in that behalf mentioned, and whether he did not leave your oratrix his widow him surviving; and whether your oratrix hath not obtained letters of administration of his estate and effects to be granted to her by and out of the proper ecclesiastical court, and whether she is not thereby become intitled to have the said sum of — *l.* and interest at 5 *l. per centum* paid to her, and whether the same or any part thereof hath been ever paid to her or to any other person on her account, previous to the time in the said proviso for redemption mentioned, or at any other and what time, and whether the same does not now remain due and owing to your oratrix with a large and what arrears of interest for the same, and whether thereby the said term of 500 years is not become absolute in your oratrix as aforesaid, and whether the said *C. C.* ought not to have paid your oratrix the said sum of — *l.* and interest for the same, or to have permitted your oratrix to have peaceably and quietly enjoyed the same, and whether your oratrix for that purpose hath not frequently by herself and agents applied to the said *C. C.* and requested him to pay the same, and whether he hath not refused to comply with such your oratrix's requests; and whether he the said *C. C.* did not well know that the said mortgaged premises were a very slender and scanty security for the principal and interest due to your oratrix thereon, and whether the said confederate doth not pretend that he hath confessed judgments, statutes and recognizances, to several persons in several considerable sums of money, and made several other grants, conveyances and secret incumbrances, which will affect the said premises prior to your oratrix's title to the same, and why he so does, and whether he doth not refuse to discover the same, or to whom he hath sold, mortgaged or incumbered the premises aforesaid or the respective considerations thereof, or the persons to whom he hath confessed such judgments, statutes and recognizances, and for what sums of money or for what considerations, and whether your oratrix is not prevented by the means aforesaid, or by any other and what means, from proceeding at law for the recovery of the said mortgaged premises; and whether such pretended conveyances, mortgages and other incumbrances, any, either and which of them, are prior to your oratrix's said mortgage; and whether the same or any and which of them, are not fraudulent and made without any real consideration, really and *bona fide* paid for the same;



and whether such pretended judgments, statutes and recognizances, or any or either, and which of them were made for the payment of any and what just debts, and whether the same were not made and executed without any consideration, and contrived for the purpose aforesaid or how otherwise; and whether the said C. C. hath not at some time or times, and when within 20 years past, in the presence of some person or persons, and whom by name acknowledged to the said intestate and to your oratrix, or to some person or persons, and whom that the said mortgage money was remaining due and unpaid, and whether it hath ever since and when been paid, and whether the said C. C. did not also at some time or times, and when in particular, and in whose presence and to whom by name, promise to pay the said mortgage money and all arrear of interest thereon, and whether he has and when so done; and that the said C. C. may be decreed by this honourable court to come to a just and fair account with your oratrix for the principal and interest now due and owing to your oratrix on the said mortgage as aforesaid, and may pay the same to your oratrix by a short day to be appointed by this honourable court, together with your oratrix's costs, and in default thereof that the said C. C. may stand absolutely barred and foreclosed of or from all manner of benefit or advantage of redemption or claim in or to the residue of the said 500 years term in the said mortgaged premises, and every part thereof; and that your oratrix may have such further relief in the premises as the nature of this case may require, and to your Lordship shall seem meet. May it please, &c.

*A special Conclusion to a Bill exhibited against the Attorney General and Others.*

— MAY it please your Lordship to grant unto your orator his Majesty's most gracious writ and writs of *subpoena* to be directed to the said A. B., C. D., and E. F. thereby commanding them and every of them, at a certain day and under a certain pain therein to be limited, personally to be and appear before your Lordship in this honourable court, then and there full and perfect answer to make to all and singular the premises; and that the Attorney General, being attended with a copy of this bill, may appear, and put in his answer thereto; and that all the said defendants may farther stand to and abide such order, direction, and decree in the said premises, as to your Lordship shall seem meet. And your orator shall ever pray, &c.

*An Answer to a Bill of Foreclosure.**The Answer of, &c.*

THE defendant saving, &c. answereth and saith, that he admits, that he being seised of, and interested in, or otherwise intituled to, the fee-simple and inheritance of and in the several messuages and lands in the complainant's bill mentioned, and having occasion for the sum of —, this defendant in the year — applied to the complainant to lend him the same; and for securing the repayment of the said sum of — and interest, this defendant proposed to convey and assure the said several messuages and lands to the complainant, and accordingly this defendant admits, that by such indenture of mortgage, as by the complainant's bill is mentioned to bear date the — day of —, and made between this defendant by the name of — of — in the county of —, of the one part, and the complainant, by the name of — of —, &c. of the other part, this defendant, in consideration of the sum of —, paid by the said complainant to this defendant, did grant, bargain, sell, alien, release, and confirm unto the said complainant and his heirs the said several messuages, lands, tenements, and premises in the said complainant's bill for that purpose more particularly mentioned and set forth, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all his estate therein, together with all deeds, evidences, and writings touching or concerning the premises, to hold unto the said complainant, his heirs and assigns for ever; and this defendant does admit, that in such indenture of mortgage there is a proviso to the effect in the complainant's bill mentioned; and likewise that there is such a memorandum or indorsement on the back of the said indenture of mortgage, to the effect in the complainant's bill also mentioned; and likewise, that for the further and better securing the payment of the said sum of — with interest to the complainant, this defendant did enter into such obligation to the complainant, as in the complainant's bill in that behalf is mentioned, and with such condition as in the complainant's bill is set forth; but for greater certainty as to the said indenture of mortgage, indorsement and end, this defendant refers himself to the same respectively, when they shall be severally produced. And this defendant does admit, that the said sum of —, or any part thereof, or any interest for the same, was not paid to the complainant, pursuant to the proviso in the said indenture of mortgage contained, and that thereby the complainant's estate and interest in the mort-

gaged premises may become absolute in law ; and this defendant does admit, that the complainant either by himself, or other on his behalf, may have applied to him for the payment of the interest of the said —, and on the defendant's not paying of the same, that this defendant should pay the whole principal and interest, but does not remember or believe that the complainant, or any person on his behalf, ever applied to him to release his equity of redemption in the said mortgaged premises, which said premises this defendant saith that he had power to assign to the complainant, as is herein before mentioned, and not assigned over to any other person or persons, or incumbered or charged in any other manner than as is herein before mentioned : And this defendant does admit, that he has not paid to the complainant any interest for the said —, or any part of the said principal sum of — ; but this defendant saith, that on the — day of — now last past, there was no more due to the complainant from this defendant, for the interest of the said —, than the sum of — ; which said premises, notwithstanding such arrears of interest, this defendant humbly apprehends to be an amply security for the said principal sum of — and interest, the said premises being of considerable value, and at the improved rent of — and upwards, and therefore humbly hopes that this court will allow him a reasonable time to redeem and pay off the said mortgage, as he is willing and desirous so to do ; and this defendant denies all and all manner of unlawful combination and confederacy in the complainant's bill charged against him ; without that, that there is any other matter or thing in the complainant's said bill of complaint contained, material or effectual for this defendant to make answer unto, and not herein and hereby sufficiently answered unto, confessed, or avoided, traversed, or denied, is true to the knowledge and belief of this defendant. All which matters and things this defendant is ready to aver, maintain, and prove, as this honourable court shall award, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf wrongfully sustained.



*An Answer of Infants by their Guardian.*

Sworn the — day of  
 — 1789, by this  
 said D. B. as Guardian  
 of the said Defendants  
 the Infants, pursuant  
 to an Order bearing  
 date the — day of  
 — 1789, before  
 me —

*The joint and several Answer of A. B.  
 and C. D. Infants, under the Age of  
 Twenty-one Years, by D. B. their Mother  
 and Guardian, Two of the Defendants,  
 to the Bill of Complaint of E. F. Widow,  
 Complainant.*

THE said defendants, saving to themselves, and each of them, all and all manner of advantage of exception to the many untruths, errors, uncertainties, and other imperfections in the said bill of complaint contained, for answer thereunto, or to so much thereof as these defendants are advised is material for them, or either of them, to make answer to, they, answering by their said guardian, severally say, That they are strangers to all and singular the matters and things in the said bill of complaint contained, otherwise than that these defendants have heard, that G. B. their grandfather, in the bill named, was seised of or intitled to several lands and tenements, and also possessed of a considerable personal estate; and also have heard that these defendants' father H. B. in the bill mentioned died intestate; and also that their said grandfather and father made some provision for these defendants by bond, settlement, or otherwise: And these defendants being infants of tender years submit themselves to the judgment of this honourable court, and humbly hope that what right or title they, or either of them, have to the real or personal estates of their grandfather, or father, shall be protected and saved to them respectively: Without that, that, &c.

*An Answer and Disclaimer.*

*The several Answer and Disclaimer of A. B. one of the Defendants to the Bill of Complaint of — Complainants.*

THIS defendant, saving and reserving to himself, now and at all times hereafter, all manner of advantage and benefit of exception, that may be had and taken to the many untruths, uncertainties, insufficiencies and imperfections, in the said complainant's said bill of complaint contained, for a full and perfect answer thereunto, or to such part thereof as it materially concerns this defendant to make answer unto, he answereth and saith,

That he believes that *C. D.* did die seised of such estates in — and — as in the said complainant's said bill are mentioned; and this defendant does believe that the said *C. D.* did make such last will and testament in writing, and did thereby create such trusts out of the said — estates, and appointed this defendant trustee thereof, in such manner and to such purport and effect, as in the said complainant's said bill for that purpose set forth; and this defendant does believe that the said testator made *E. F.* gent. executor of his said will; and this defendant does believe that the said *C. D.* soon after making his said will departed this life, that is to say, on or about the — day of — in the year — without revoking or altering his said will, seised of such estates in — and — as in the said complainant's said bill are set forth: And this defendant further saith, that he was advised that the said trust would be attended with some difficulty, besides expence and loss of time to this defendant; therefore this defendant absolutely refused to intermeddle therewith, or any way concern himself therein: And this defendant denies, that he or any for him ever entered on the said trust-estate, or ever received any of the rents and profits thereof; but this defendant hath been informed and believes the same were received by *G. H.* of the city of — in the said county of — gent. who was employed by the said testator *C. D.* in his life-time to receive the rents and profits of the said — estate for the said *C. D.* and this defendant doth believe that the said *G. H.* hath received the said rents and profits of the said trust-estate ever since the death of the said testator *C. D.* and still doth continues to receive the same: And this defendant positively denies that the said *G. H.* had any power, authority or direction from this defendant to receive all or any part of the rents and profits of the said trust-estate, or that he ever accounted with this defendant for the same: And this defendant is very desirous and ready to be discharged from his said trust, and to do any act for that purpose as this honourable court shall direct, this defendant being indemnified in so doing, and having his costs. And this defendant further saith, that as to so much of the said bill as seeks a discovery of this defendant's title to the lands in — this defendant saith, that he doth not know that he this defendant to his knowledge or belief ever had, nor did he claim or pretend to have, nor doth he now claim or pretend to have, any right, title or interest of, in or to the said estate in — in the said complainant's bill set forth, or any part thereof; and this defendant doth disclaim all right, title and interest to the estate in — in the complainant's said bill mentioned, and every part thereof. And this defendant doth deny all manner of unlawful combination and confederacy unjustly charged against him in and by the said complainant's

plainant's said bill of complaint; without that, that any other matter or thing in the said complainant's said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true: All which matters and things this defendant is ready to aver, maintain and prove, as this honourable court shall award; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

Pleas, Answers, and Demurrers.

*Plea of a former Suit depending for the same Matter.*

Filed the — day  
of — 1789.

*The plea of C. D. Gent. one of the defendants, to the bill of complaint of A. B. Esq. complainant.*

THE said defendant by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's said bill of complaint contained to be true, in such manner and form as the same are therein declared and set forth, for plea thereunto saith, that heretofore, and before the said complainant exhibited his bill in this honourable court, to wit, on the — day of — which was in the year of our Lord —, the said now complainant, together with — and — in the said bill named, did exhibit their bill of complaint into this honourable court against this defendant, and also against — for the same matters, and to the same effect, and for the like relief and purpose as against this defendant, as the now complainant doth by his present bill set forth; to which said first bill this defendant did put in his answer, and the then complainant thereunto replied, and the said former bill is still depending in this honourable court, and the said cause is yet undetermined; and therefore this defendant doth plead the said former bill, answer and proceedings in bar to the said now complainant's said present bill: and humbly prays the judgment of this court, whether he shall be compelled to make any farther or other answer thereunto; and prays to be hence dismissed with his costs and charges in this behalf sustained.

*Note; this plea is without oath.*



*A Plea of the Stat. of Limitations in bar of an Account.*

Sworn the — day  
of — 1789 be-  
fore.

*The plea of C. D. Gent. de-  
fendant, to the bill of  
complaint of A. B. Gent.  
complainant.*

**T**HIS defendant by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's said bill of complaint contained to be true, in such manner and form as the same are therein and thereby charged and alleged, for plea unto the said bill saith, *That* if the complainant, either in his own right, or as executor of — in the bill named, ever had any cause of suit against him this defendant, for or concerning any the matters, transactions or dealings in the said bill of complaint mentioned (which this defendant doth in no sort admit) the same did accrue or arise above six years before filing the said bill, and above six years before serving this defendant with any other process to appear to and answer the same: And this defendant farther for plea saith, and doth aver, that he did not at any time within six years before filing the complainant's said bill of complaint, nor within six years before this defendant was served with process to appear and answer thereto, ever promise or agree to come to any account for, or to pay, or any ways satisfy the said complainant any money, for or concerning any the matters, transactions, or dealings in the complainant's said bill of complaint charged or alleged; and therefore this defendant doth plead the act of parliament or statute of limitations, made in the 21<sup>st</sup> year of King *James* the First, and prays the benefit of the said act of parliament for limitation of actions: All which matters this defendant doth aver and plead in bar of the complainant's said bill, and of the complainant's pretended demands, for which he seeks to be relieved by his said bill; and this defendant prays to be hence dismissed with his reasonable costs in this behalf wrongfully sustained.

*A Plea in bar of a verbal Agreement, where a Bill is brought to carry it into execution, and to reduce it into writing.*

Sworn the — day  
of — 1789, be-  
fore.

*The plea of C. D. one of the defendants  
to part, and his answer to the res-  
idue of the bill of complaint of A. B.  
and others, complainants.*

THE end of the plaintiff's bill is to compel this defendant to perform an agreement thereby suggested to have been made by this defendant, with the complainant for the granting or executing to the complainant a lease in writing of the several lands and tenements in the bill mentioned, for the term of ten years from the feast of St. *Michael* the archangel, which was in the year of our Lord God ——— pursuant to such precedent agreement; this defendant by protestation, not confessing or acknowledging all or any the matters or things in the said bill contained to be true, in such sort, manner and form, as the same are therein and thereby charged, alleged or set forth, as to so much of the said bill as seeks to compel this defendant or any person or persons claiming under him, to execute a lease in writing of the several lands and tenements in the bill mentioned, or of any of them, or of any part thereof, pursuant to the pretended agreement in the bill mentioned; and as to any the relief thereby prayed touching such lease and agreement, this defendant doth plead in bar; and for plea saith, that by an act of parliament made in the 29th year of the reign of his late Majesty King *Charles* the Second, intituled, *An act for prevention of frauds and perjuries*, it is amongst other things enacted, That from and after the 24th day of *June* 1677, no action shall be brought whereby to charge any person upon any contract of lands, tenements or hereditaments, or any interest in or concerning them, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorised, as by the said act may appear: And this defendant avers, that neither he this defendant, nor any person by him lawfully authorised, did ever make or sign any contract or agreement in writing for making or executing any lease to the complainant of the same premises or any of them, or of any part or parcel thereof, or to any such effect, as by the said bill is suggested, or any memorandum or note in writing of any agreement whatsoever, for or concerning the demising or leasing,  
or

or making or executing any lease of the said premises, or any of them, or any part or parcel thereof, to the complainant; and therefore this defendant doth plead the said act of parliament and matters aforesaid, in bar to so much and such part of the said bill as seeks to compel this defendant or any person or persons claiming under him, to execute a lease to the complainant of the several lands and tenements in the bill mentioned, or of any of them, or of any part or parcel thereof, pursuant to the said pretended agreement, and as to any the relief thereby prayed touching such lease and agreement, and humbly prays the judgment of this honourable court, whether he shall be compelled to make any farther or other answer to so much and such part of the said bill as is herein and hereby pleaded unto as aforesaid; *And* this defendant not waiving his said plea, but wholly relying and insisting thereon, for answer to the residue of the complainant's bill, not herein before pleaded unto, or to so much thereof, as he this defendant is advised, is material or necessary for him to make answer unto, he answereth and saith, &c. [*Here recite such answer as counsel shall advise the defendant to make to the residue of the complainant's said bill, and conclude thus*] *Without that*, that any other matter or thing in the complainant's said bill of complaint contained, material or effectual for this defendant to make answer unto, and not herein before pleaded and answered confessed or avoided, traversed or denied, is true: All which matters and things this defendant is ready to aver, justify, maintain and prove, as this honourable court shall award and direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf sustained.

*A Plea of the Statute of 29 Car. 2. c. 2. in bar to a pretended Agreement, and also a Misnomer.*

Sworn, &c.

*The several plea and answer of C.D.  
one of the defendants to the bill of  
complaint of A. B. complainant.*

THE said defendant by protestation, not confessing or acknowledging all or any of the matters or things in and by the said bill of complaint set forth and alledged to be true, for plea thereunto saith, that he is advised that the complainant, by his bill of complaint, seeks to have a discovery of a supposed undertaking, and promise, suggested to be made by this defendant some time in or about the month of ——— which was  
in



in the year of our Lord — wherein this defendant is supposed to undertake and promise the complainant to satisfy and pay him for whatever goods and wares the complainant should from thenceforth sell to — another defendant in the said bill named; and that under such pretended agreement the complainant hath sold and delivered unto the said — the several parcels of goods mentioned in a schedule annexed to the said bill, amounting to the sum of —; as to so much and such part of the said bill, which seeks a discovery from this defendant relating to such pretended undertaking or promise, or any relief thereupon, this defendant pleadeth, that by a statute or act of parliament made in the 29th year of the reign of King *Charles the Second*, intituled, *An act for prevention of frauds and perjuries*, it is amongst other things enacted, That from and after the 24th day of *June* which was in the year of our Lord 1677, no contract for sale of any goods, wares and merchandizes for the price of 18 l. sterling or upwards shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment; or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized; which statute, and particularly the said clause therein and herein before mentioned, this defendant doth plead in bar to the complainant's demands, the complainant not suggesting in and by his said bill of complaint, that this defendant did accept any part of the goods suggested in and by the said bill of complaint to be sold, or actually received the same, or gave any thing in earnest to bind the bargain, or in part of payment; nor that any note or memorandum in writing of such pretended bargain was made and signed by this defendant or by any agent lawfully authorized by this defendant, otherwise than as it is pretended and suggested in and by the said bill of complaint, that this defendant did, at the time of such pretended undertaking and promise, write down his this defendant's name on a piece of paper, and deliver the same to the complainant: And this defendant for farther plea saith, that the complainant in and by his said bill of complaint, doth call this defendant by the name of —; whereas this defendant doth aver, that his name is —, and that he this defendant was always known by the name of —, and that this defendant always signed his name — to the best of this defendant's knowledge, remembrance and belief; therefore this defendant doth likewise plead the said misnomer in bar of any farther discovery and relief prayed by the said bill, and humbly claims the benefit thereof, And for answer to the residue of the said bill

bill of complaint, or to so much and such part thereof, as this defendant is advised materially concerns him to make answer unto, this defendant answereth and saith, *That* he believes it may be true that the said ——— was by trade a ———, and that the complainant might have dealings with him the said ——— in the way of his trade, and that the said ——— might be a prisoner for debt in the King's Bench prison about the time for that purpose set forth in the bill; and this defendant farther answering saith, that he doth not remember that about the time in the bill set forth, or at any other time, this defendant did write down his name on a piece of paper, and deliver the same to the complainant; and this defendant is the rather induced to believe that he did not so write down his name on a piece of paper, and deliver the same to the complainant, because the complainant throughout the said bill of complaint hath called this defendant by the name of ——— whereas this defendant never wrote any other name for himself than ——— to the best of this defendant's knowledge, remembrance and belief; and therefore if this defendant had wrote his name on a piece of paper, and delivered the same to the complainant, this defendant verily believes that the name pretended to be wrote on such piece of paper would have been ——— and not ———; however, if the complainant has any such piece of paper, this defendant leaves the complainant to make such use thereof, as he shall be advised: For all which causes this defendant doth humbly demand the judgment of this honourable court whether he shall be compelled to make any farther answer unto the complainant's said bill of complaint than as aforesaid. And this defendant doth deny all unlawful combination and confederacy, without that, that any other matter or thing in the complainant's said bill of complaint contained, material or effectual for this defendant to make answer unto, and not herein before pleaded and answered unto, confessed or avoided, traversed or denied, is true: All which matters and things this defendant is ready to aver, justify, maintain and prove, as this honourable court shall order and direct. And this defendant humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

Sworn, &c.

*A plea of the statute of limitations in bar of an account.*

**T**HIS defendant by protestation, not confessing or acknowledging all or any the matters and things in the complainant's said bill of complaint contained to be true, in such manner and form as the same are therein alleged and set forth, as to so much of the said bills as seeks an account and discovery of the estate or effects of *A. B. gent.* deceased, this defendant's testator, or that seeks satisfaction for or on account of any money received by the said *A. B.* on account of ——— in the bill named, or for or on account of the complainant; or that seeks a discovery how many hogheads of tobacco or rice, or any other commodities pretended to be consigned to the said *A. B.* or that seeks a satisfaction for the same, or that seeks a discovery or satisfaction for any of the monies, goods or effects of the said ——— come to the hands of this defendant since the decease of the said *A. B.* this defendant pleads thereto, and for plea saith, that ——— in the bill named, under whom the complainant pretends to claim, departed this life in or about the year ———, and that *A. B. gent.* this defendant's testator, departed this life in or about the month of ———, and that the monies and effects pretended to be received by the said *A. B.* or by this defendant, and the goods and commodities pretended to be consigned, if, any sums of money, goods or effects were received by the said *A. B.* or by this defendant (which this defendant doth not in any sort admit) that all and every such sums of money, goods and effects, were received by the said *B.* or by this defendant above six years before this defendant was served with any process of this court to answer the said bill, or any process was sued out against this defendant to call this defendant to an account for the same; and that if the complainant had any cause of action or suit against this defendant, or against the said *A. B.* for or concerning any of the said matters, (which this defendant doth not admit) that such cause of action or suit did accrue or arise above six years before filing of the said bill, or serving this defendant with process to appear to and answer the said bill: Nor did this defendant or his said testator, at any time within six years before exhibiting the said bill, or suing out process against this defendant, promise or agree to come to any account, or to make satisfaction, or to pay any sum or sums of money for or by reason of any of the said matters; and therefore this defendant doth plead the act of parliament made in the twenty-first of the reign of King *James* the First,



First, for the limitation of actions, and avoiding of suits at law; and prays the benefit of the said act, and pleads the same in bar of so much of the complainant's said demands in his said bill set forth and mentioned; and prays the judgment of this honourable court thereon. And this defendant not waiving his said plea, but wholly relying and insisting thereon, for answer to the residue of the complainant's said bill, or to so much thereof as he this defendant is advised is material or necessary for him to make answer unto, he this defendant answereth and saith, &c.

*A Plea of Outlawry.*

Sworn, &c.

*The plea of A. B. defendant to  
the bill of complaint of C. D.  
complainant.*

**T**HE said defendant by protestation, not confessing or acknowledging all or any of the matters or things in the complainant's said bill of complaint contained to be true, in such manner and form as the same are therein and thereby set forth, alleged and declared, for plea thereunto saith, That the said complainant now is and standeth a person outlawed, and is thereby disabled by the laws of this realm, to sue or commence any action or actions, suit or suits, in this honourable court, or in any other court, until the said outlawry be reversed by due course of law; for this defendant saith, that on *Monday* next before the feast of the purification of the blessed *Virgin Mary* in the tenth year of the reign of our late Sovereign Lord King — the said complainant by the name of *C. D.* was outlawed in an action of trespass at the suit of ——— as by the said outlawry *sub pede sigilli* hereunto annexed may appear; which said outlawry doth yet stand and remain in full force and unreversed: And this defendant doth aver that the said *C. D.* the complainant named in the said bill of complaint, and the said *C. D.* named in the said writ of *copias utlagatum* hereunto annexed, is one and the same person, and not diverse and several: And therefore this defendant doth humbly demand the judgment of this honourable court, whether or no he shall be compelled to make any other or farther answer to the complainant's said bill of complaint, until the said complainant shall have reversed the said outlawry, and thereby become a person of ability and capable to exhibit a bill of complaint against this defendant; and in the mean time this defendant prays to be dismissed with his reasonable costs in this behalf wrongfully sustained.

*Plea to a Bill exhibited by a Feme Covert in her own Name.*

Sworn, &c.

*The plea of E. F. defendant, to the bill of complaint of L. M. complainant.*

**T**HE said defendant, not confessing all or any the matters and things in the complainant's said bill of complaint contained to be true, in such manner and form as they are therein and thereby set forth, for plea thereunto this defendant saith, that the plaintiff at and before the exhibiting her said bill of complaint was married to one ————— who is yet living, which this defendant doth aver and will prove, if there be occasion; and therefore this defendant doth plead the same in abatement to the complainant's said bill of complaint, and humbly craves the judgment of this honourable court, whether he shall make any answer thereunto; and humbly prays to be hence dismissed with his costs and charges in this behalf sustained.

*A Demurrer for want of Equity.*

*The Demurrer of C. D. one of the Defendants, to the Bill of Complaint of A. B. Complainant.*

**T**HIS defendant by protestation, not confessing or acknowledging all or any of the matters or things in and by the said bill set forth and complained of to be true, in manner and form as the same are therein and thereby set forth and alleged, saith she is advised by her counsel, that there is no matter or thing in the said bill contained good and sufficient in law to call this defendant in question in this honourable court for the same, but that there is good cause of demurrer thereunto, and therefore this defendant doth demur thereunto, and for cause of demurrer this defendant saith, That the complainant's said bill (in case the allegations therein contained were true, which this defendant doth in no sort admit) contains not any matter of equity whereon this court can ground any decree, or give the complainant any relief or assistance, as against her this defendant; wherefore, and for diverse other errors and imperfections in the said bill appearing, this defendant doth demur in law thereunto; and humbly demands the judgment of this honourable court, whether

whether she shall be compelled to put in any farther or other answer to the said bill; and humbly prays to be hence dismissed with her reasonable costs in this behalf most wrongfully sustained.

*A Demurrer for want of Parties.*

*The Demurrer of C. D. Defendant to the Bill of Complaint of A. B. Complainant.*

AS to so much of the complainant's bill whereby the complainant doth intitle himself to, and demands from this defendant as executrix of *E. F.* in the bill named, the sum of ——— and interest. under a letter of appointment, pretended to be directed to *G. H.* in the bill named by *J. K.* also in the said bill named, and another defendant thereto; whereby the said other defendant *K.* did direct the said *H.* to pay ——— in the manner in the bill mentioned, and for that the said *H.* as is pretended, had notice of an assignment in the bill mentioned of the ——— to the complainant, and promised to pay the same: This defendant by protestation, not confessing or acknowledging the complainant's bill to be true, in such sort, manner or form, as the same matters are therein set forth, this defendant doth demur thereto, and for cause of demurrer sheweth, That by the complainant's own shewing in his bill the said *G. H.* is dead, and neither his executor or administrator is made a party to the said bill; and therefore, and for other good cause or causes of demurrer in the bill contained, as to so much of the complainant's said bill as is demurred unto as aforesaid, this defendant doth demand the judgment of this honourable court, whether this defendant shall be compelled to make any answer thereunto, otherwise than as aforesaid. And this defendant humbly prays to be hence dismissed with her costs in this behalf wrongfully sustained,

*A Demurrer to a Bill where it appears by the Plaintiff's own shewing that she has no Equity.*

*The joint and several Demurrer of C. D. and E. F. two of the Defendants to the Bill of Complaint of A. B. Widow, Complainant.*

THE said defendants by protestation, not confessing or acknowledging all or any of the matters or things in the complainant's said bill of complaint to be true, in such sort, manner

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ner and form, as the same are therein and thereby set forth and alledged, for answer to the said complainant's bill of complaint, these defendants do demur in law, and for cause of demurrer say, That it appears of the plaintiff's own shewing in her said bill of complaint, that she claims or pretends title to one-third of the premises in question in the bill mentioned, as a person next in remainder in tail, under a devise in a will in the said bill mentioned and set forth; which is a matter merely triable at law; and touching which the complainant may sufficiently ascertain her title by ejectment or ejectments to be brought at law; wherefore, and forasmuch as the complainant's said bill of complaint doth not contain (as these defendants are advised) any matter of equity sufficient to establish any right or demand against these defendants or either of them, nor to draw them in suit into this honourable court touching the matters complained of in the complainant's said bill of complaint, and also for many other errors and imperfections in the complainant's said bill of complaint contained, these defendants do demur in law thereunto, and humbly crave the judgment of this honourable court, whether they ought to make answer to the said bill of complaint; and humbly pray to be hence dismissed with their costs in this behalf wrongfully sustained,

*A Demurrer where the Defendants are charged with Felony, or compounding Felony.*

*The Demurrer of the Defendants C. D., G. H. and E. his Wife to Part, and their Answer to other Part of the Bill of Complaint of A. B. Complainant.*

AS to so much of the complainant's bill as seeks to charge these defendants or any of them with the concealing or compounding the felony in the bill mentioned, or as seeketh to compel any of these defendants to make any discovery touching the same, or any of the matters relating thereto, in the bill suggested or alledged, these defendants by protestation, not confessing or acknowledging any of the matters or things relating thereto in the said bill comprized to be true, in such sort, manner and form, as therein the same are alledged or set forth, these defendants do demur, and for cause of demurrer shew, That they ought not to be compelled to discover or set forth any matters whereby they may impeach or accuse themselves of an offence or crime for which they may suffer corporal punishment, or be grievously fined; and therefore, and for divers other good causes of demurrer, in the complainant's said bill of his own

shewing appearing, these defendants, as to so much of the complainant's said bill as before is set forth, do demur, and do demand the judgment of this honourable court, whether they, or any of them, ought, or shall be compelled, to make an answer thereto, other, or otherwise than as aforesaid; and humbly pray o be hence dismissed with their costs. And these defendants by way of answer do deny, &c.

*A Demurrer for want of Parties, and for want of an Affidavit, to a Bill brought for a Discovery of a Deed.*

*The Demurrer of A. B. and J. his Wife, Defendants, to the Bill for Complaint of C. D. Complainant.*

THE said defendants by protestation, not confessing or acknowledging all or any the matters and things in the complainant's bill of complaint alleged and set forth to be true, in such manner and form, as the same is and are thereby set forth, say, That they are advised that the substance of the said bill is to discover a deed suggested to be made by — in the said bill named, whereby — *per annum*, or some such provision was made for the benefit and advantage of his younger sons, and payable out of his lands, and that the plaintiff is the survivor and intitled to the said provision, and that the said lands, upon the death of the said —, descended or came to his eldest son and heir — deceased, of whom the plaintiff, as is suggested, demanded the benefit of the said deed; but before any benefit obtained, he the said — died, leaving two daughters his heirs, and that the plaintiff after the death of the said — made his application to this defendant — the relict of the said — and sent the deed to her, and that the said deed is now in the hands of the said defendants, who by combination with the said daughters and heirs, do refuse to pay the plaintiff the said provision made by his father, and the arrears thereof, or permit him to enjoy the lands out of which the same is issuing, and therefore prays a discovery of the said deed, and to have the arrears of the said provision and farther relief: To which bill these defendants, as advised, do demur, and for cause of demurrer say, That the plaintiff ought according to the rules of this court to have made affidavit that he had not in his custody or power the deed of which he seeks a discovery, and for want whereof he prays relief in this court; and also for that the said complainant seeks relief for arrears of a provision of — *per annum*, or some other provision made by the supposed deed, and to have relief in this court, to make good

good the same for the future, and yet hath not made the executors or administrators, nor the heirs of the said — parties to his bill, who are (as these defendants are advised) the proper persons intitled and interested to contest the said arrears or future payment thereof, and the relief prayed in and by the complainant's said bill: And although he hath taken notice in his bill of the said daughters and heirs, yet hath he not made them defendants, nor prayed any process against them: Wherefore, for many other errors and defects in the said bill, the said defendants do demur in law, and do humbly pray the judgment of this honourable court, whether they shall be compelled to make any other or farther answer thereto, and do also humbly pray to be hence dismissed, &c.

*A Demurrer for that the Plaintiffs have not entitled themselves to prosecute.*

**T**HE said defendants by protestation, not confessing or acknowledging all or any of the matters or things in the complainant's bill of complaint contained to be true, in such manner, sort and form, as the same are therein and thereby set forth and alleged, do demur thereunto, and for cause of demurrer shew, That the scope and end of the complainant's bill is to be relieved touching several sums of money by the said bill supposed to be due from these defendants to one — deceased, in the said bill named, which the complainants would, or seek by their said bill to claim as executors to the said —, and yet have not alledged in or by their said bill, that they have proved the will of the said — (if any such was made) or otherwise taken upon them the burden or execution thereof, or any ways intitled themselves unto her personal estate, and to sue for the same: Wherefore, and forasmuch as the said complainants have not well and sufficiently intitled themselves in and by their said bill to the said money (if they had been due from these defendants or either of them, to the said —) as is thereby supposed, and for that, should these defendants pay the money demanded by the said bill to the complainants before they have either proved the will or sued out administration, they cannot sufficiently, as these defendants are advised and insist, discharge these defendants, nor give these defendants any proper receipt or receipts for the same, but that they shall or may be liable to be questioned again by such person as may sue out administration to the said — with the said will annexed, or otherwise, for which and divers other causes these defendants do demur in law unto the complainant's said bill of complaint, and all the matters



and things therein contained ; and humbly demand the judgment of this honourable court, whether they, or either of them, shall be compelled to make any other or farther answer thereunto ; and pray to be hence dismissed with their costs, &c.

*Demurrer to a Bill seeking to have a Will established, and to perpetuate the Testimony of Witnesses, and praying Relief.*

*The Demurrer of A. B. and C. D. Defendants, to Part, and their Answer to other Part of the Bill of Complaint of E. F. Complainant.*

**T**H E said defendants by protestation, not confessing or acknowledging all or any of the matters and things in the complainant's bill mentioned to be true, in such manner and form as the same are therein set forth, as to so much of the said bill as seeks to have the will of — deceased, in the said bill named, established against these defendants by the decree of this honourable court, these defendants do demur, and for cause of demurrer do shew, That it appears by the said complainant's own shewing in and by the said bill, that the said complainant hath not any equity or title whereon such decree can be grounded or made, against these defendants, or either of them, and the validity of the said will is a matter properly triable at law ; wherefore, and for divers other errors and imperfections appearing in the said bill, these defendants do demur to so much and such part of the said bill as aforesaid, and humbly pray the judgment of this honourable court, whether they shall be compelled to make any answer to such part of the said bill as is so demurred unto. And as to the residue of the said bill, these defendants respectively, saving and reserving to themselves all benefit and advantage of exception to the imperfections and insufficiencies thereof, do severally answer and say, &c. — They deny that the testator made a will, and believe he was imposed upon in making the same, and insist that they the defendants as heirs at law to the said testator, are intitled to his freehold and copyhold estates, in the complainant's bill mentioned, &c.

*A Demurrer put in by three Defendants to a Bill exhibited against them and others, for several and distinct Matters that have no Relation to each other, and wherein they are not interested.*

*The Demurrer of M. N. R. S. and W. N. Three of the Defendants, to the Bill of Complaint of A. B. Complainant.*

**T**H E S E defendants by protestation, not confessing or acknowledging all or any of the matters or things in the said complainant's bill set forth to be true, in such sort, manner and form as the same are therein and thereby set forth and alleged, for demurrer, thereunto these defendants severally say, That it appears by the said bill, that the same is exhibited against these defendants, and——and——for several and distinct matters and causes that have no relation to or dependance upon each other, and wherein, as it appears by the bill, neither of these defendants are in any manner interested or concerned, by reason of which matters the complainant's bill is spun out to a great length, and these defendants forced to make a copy of the whole, and by the mingling defendants and causes together in one bill, in the progress of the suit, the pleadings, orders and proceedings, will be intricate and prolix, and these defendants put to unreasonable and unnecessary charges in taking copies thereof; for which reasons, and for divers other errors and imperfections in the said bill appearing, these defendants do demur to the said bill of complaint, and humbly demand the judgment of this honourable court, whether they shall be compelled to make any farther or other answer thereunto; and humbly pray to be hence dismissed with their costs.

*A Demurrer, Plea, and Answer, to a Bill seeking Relief against a Will, whereby a Personal Estate is devised, being proved in the Ecclesiastical Court, and the Will pleaded in bar, and for want of Equity.*

*The joint and several Demurrer of S. N. and E. E. his Wife, to Part, and the Plea of the said S. N. to Part; and the joint and several Answers of the said S. N. and E. his Wife to other Part of the Bill of Complaint of M. B. W. T. and J. M. and S. his Wife, Complainants.*

**T**H E S E defendants S. N. and E. his wife, by protestation, not confessing or acknowledging all or any the matters and things in the said bill of complaint to be true, in such

fort and manner as the same are therein expressed and contained as to so much of the said bill as seeks to set aside or impeach, or have any relief against the will of *R. R.* in the bill named, as to the personal estate of the said *R. R.* or that seeks any discovery from these defendants, or either of them, in relation to the said will, or that prays an *injunction* against this defendant *S. N.* to stop his proceeding at law against the said *W. T.* these defendants do demur thereunto, and for cause of demurrer shew, That it appears by the complainant's own shewing, that this defendant *S. N.* hath proved the said will of the said *R. R.* in the prerogative court of the Archbishop of *Canterbury*; and these defendants are advised that the probate of wills relating to estates, and particularly relating to personal estates, do properly belong to the ecclesiastical courts of this realm, and that the same ought not to be called into question in this honourable court: And for further cause of demurrer these defendants shew, that there is not, as they are advised, any matter or thing set forth in and by the said bill as a foundation of equity for this court to interpose, in relation to the action at law commenced by this defendant *S. N.* against the said *W. T.* but what is properly cognizable at law, and that the said complainant may have the benefit of, upon a trial at law, if the same is true; for which reason, and for divers other causes, these defendants do demur to so much of the said bill as aforesaid, and humbly pray the judgment of this honourable court, whether they shall make any further or other answer thereto. And as to so much of the said bill as seeks to have a distribution of the personal estate or effects of the said *R. R.* according to the statute of distribution of intestates estates, or that seeks to have any account or discovery of or from this defendant *S. N.* of the personal estate of the said *R. R.* this defendant *S. N.* doth plead thereunto, and for plea this defendant saith, That the said *R. R.* did in his life-time, on or about the——day of —— in the year of our Lord——as this defendant believes, duly make and publish his last will and testament in writing, and thereby, after having given several legacies therein particularly mentioned, gave and bequeathed all the rest and residue of his real and personal estate unto this defendant, to hold to him, his heirs and assigns for ever, and of the said will made this defendant sole executor; and this defendant also, after the death of the said testator, proved the said will in the prerogative court of the Archbishop of *Canterbury*, as by the probate thereof, under the seal of the said court, now in the custody or power of this defendant, ready to be produced, as this honourable court shall direct, and to which this defendant craves leave to refer, doth more fully and at large appear. All which said matters and things this defendant doth aver, and is ready to prove, as this honourable court shall direct, and doth plead the same



same in bar to so much of the said bill as for that purpose is herein before mentioned, and humbly craves the judgment of this honourable court, whether he shall make any further or other answer thereto. And as to so much of the said bill as these defendants have not before respectively demurred or pleaded unto, these defendants in no sort waiving the benefit of their said demurrer and plea, or either of them, but wholly relying and insisting thereon, these defendants for answer to the residue of the complainant's said bill, or to so much thereof as these defendants are advised is material or necessary for them, or either of them, to make answer unto, these defendants each speaking for him and herself, and not the one for the other, they these defendants do severally answer and say as follows, &c.

Interrogatories.—To prove a Will by subscribing Witnesses.

*Interrogatories to be administered to Witnesses, to be produced, sworn and examined in a certain Cause now depending and at Issue in the High Court of Chancery, wherein G. S. Esq; (an Infant under the Age of 21 Years, by M. S. Widow, his Mother and next Friend,) is Complainant, and J. S. (an Infant under the Age of 21 Years, by W. M. his Guardian,) is Defendant, on the Part and Behalf of the Complainant, as follows.*

1. **D**O you know the parties complainant and defendant in the title of these interrogatories named, or either and which of them, and how long have you known them respectively? And did you know J. S. Esq; deceased, late father of the complainant and defendant, in his life-time, and how long did you know him before his death, and when and where did the said J. S. the father die, as you know or believe? Declare.

2. Do you know that the said J. S. the father in his life-time did make his last will and testament in writing under his hand and seal? If yea, when and where did he so make the same, and how long before his death was the same made? Do the words following, (*to wit*) *In the name of God, Amen, &c. [here set forth the will verbatim]* contain or express the last will and testament of the said J. S. the father, as you know or believe? Declare.

3. Do you know the paper or parchment writing now produced and shewn unto you, and marked with the letter (A)? If yea, doth the same contain the last will and testament of the said J. S. the father, as you know or believe; was you a wit-

ness to the said will, and did you see the said *J. S.* the father, sign, seal, publish and declare the same to be his last will and testament, or not, and is your name subscribed as a witness thereto of your own proper hand-writing or not? If yea, who were the witnesses thereto, and did you and the other persons, who are witnesses to the said will, subscribe your names as witnesses thereto in the presence of the said testator; and who were present at the executing of the said will by the said testator besides yourself and the other witnesses; and was the said testator, at the time of the executing of the said will, of sound mind, memory and understanding, as you know or believe? Declare.

4. Do you know of any other matter or thing that may tend to the benefit and advantage of the complainant in this cause? If yea, declare the same as fully as if you had been thereunto particularly interrogated.

*Interrogatories for Examining of Witnesses for proving of a Deed and Bond, and other Matters relating to an Estate in Possession of the Defendant.*

*Interrogatories to be exhibited to Witnesses, to be produced, sworn and examined in a certain Cause depending and at Issue in the High and Honourable Court of Chancery, wherein G. D. Gent. is Complainant, and G. G. Gent. Defendant, on the Part and Behalf of the said Complainant, (as follows:)*

1. **W**HETHER do you know the parties complainant and defendant in the title of these interrogatories above-named, or either and which of them? And whether did you know *T. G.* late of ———, in the county of ———, gent. deceased? And if yea, for how long did you know him, and when, and how long since did the said *T. G.* depart this life? Set forth, and according to the best of your knowledge, remembrance and belief herein fully and at large declare.

2. Did you see the parchment deed or writing, now produced and shewn to you at this the time of your examination marked letter *A.* signed, sealed, and delivered, and by whom? And whether is your name, and the name or names of the other person or persons, set as subscribing witnesses thereto, of your and their respective hand-writing? And whether was the consideration money, mentioned in the said produced deed or writing, paid or satisfied, and when, and by whom, and to whom? Set forth, and according to the best of your knowledge remembrance and belief herein, with the reasons and circumstances thereof, fully and at large declare.

3. Do

3. Do you know the lands and premises in the parchment deed or writing now produced and shewn to you, or any, and what part thereof? If yea, whether is the defendant *G. G.* in the receipt of the rents and profits thereof, or of any, and what part thereof? or who is in the possession thereof, or in the receipt of the rents and profits? Hath the said defendant been in the possession thereof since the said *T. G.*'s death? If yea, when did he take possession thereof, and when did he quit the same, and whether does the said defendant claim or pretend any and what right and title thereto, or to any and what part thereof, and by and under whom and in what manner, and by what means, and how? Set forth according to the best of your knowledge and belief herein, and the particular reasons and circumstances thereof fully and at large declare.

4. Did you see the bond or paper-writing, now produced and shewn unto you at this time of your examination, marked letter *B.* signed, sealed and delivered, and by whom; and whether is your name, and the name or names of the other person or persons, set as subscribing witnesses thereto, of your and their respective hand-writing? and whether was the money, mentioned to be secured by the said produced bond or paper-writing paid and satisfied, and by whom, and to whom, and when, and how, and in what manner? Did the defendant by himself or any other person make application to the complainant to advance and lend *T. G.* deceased, the obligor in the said bond, any sum or sums of money? If yea, when and by whom and to whom was such application made, and by whose order? Set forth according to the best of your knowledge and belief herein, and the particular reasons and circumstances thereof fully and at large declare.

5. Was it at any time and when agreed by *T. G.* deceased, the obligor in the bond in the preceding interrogatory mentioned, and how and in what manner, that the said bond or money thereby intended to be secured should be a charge or chargeable upon or secured by any and what lands or estate? Set forth what you know or believe herein, and the particular reasons and circumstances thereof and relating thereto fully and at large declare.

6. Is there any other matter or thing which you know or believe to be necessary or material for the complainant to prove in this cause? If yea, set forth the same, and the particular reasons and circumstances of such your knowledge and belief thereof fully and at large declare.



*Interrogatories for examining of Witnesses, on the Behalf of a Defendant, for proving the Execution of Bonds, and Money lent upon Securities, &c.*

*Interrogatories to be administered to Witnesses to be produced, sworn and examined on the Part and Behalf of G. G. Gent. one of the Defendants to the original Bill of Complaint of G. D. Gent. Complainant.*

1. **D**O you know the parties complainant and defendant, or any and which of them ; and how long have you known them, or any and which of them ? Declare the truth and your knowledge therein.

2. Did you know *T. G.* late of ——— in the county of ——— deceased, and how long did you know him before his decease, and when or about what time did the said *T. G.* die ? Declare the same as you know or have been credibly informed and believe.

3. Were the bonds or writings now shewed unto you, and marked with the letters *A. B.*, *C. D.*, *E. F.* or any and which of them, signed, sealed and delivered in your presence, and by whom ? Were you a witness to the signing, sealing and delivery of such bond or bonds, or not ? Is your name subscribed as a witness to the same, of your own proper hand-writing, or not ? Are you acquainted with the character or hand-writing of the other subscribing witness or witnesses to the said bond or bonds, or any and which of them ? Do you know their names subscribed thereto to be of their own hand-writing, or not ? Declare all that you know or verily believe concerning the same.

4. Do you know of any and what sum or sums of money that was or were lent and paid by the defendant *G. G.* or by any person or persons by his order, or on his account, to the said *T. G.* in his life-time, or to any other person or persons to or for his use, as the consideration for entering into and executing any and what bond or bonds, or judgment, or other and what security or securities to the said *G. G.* and when was the same lent or advanced and paid ? Or have you heard the said *T. G.* acknowledge or declare any thing and what concerning the money due, or the consideration for which the said bond or bonds were given ? Declare all that you know or have been credibly informed and believe concerning the same, with the reasons and circumstances that induce your belief.

5. Do you know of any and what sum or sums of money that was or were paid by the defendant *G. G.* or by any person or persons by his order, or on his account, to you or to any other

other person or persons, and whom by name, that was or were due from the said *T. G.* to you or to any and what other person or persons on any and what bond or bonds, bills, notes, or any and what other security or securities, or account? If yea, set forth the particular time or times when the same was or were paid. Declare all that you know and have been credibly informed and believe concerning the same, with the reasons and circumstances which induce your belief.

6. Do you know of any and what promise or offer that was at any time or times, and when and how often made by the defendant *G. G.* or by any person or persons, and whom by name, by his order or direction, or for or on his behalf, to the complainant *G. D.* to pay off, satisfy and discharge any and what mortgage that was made by the said *T. G.* in his life-time to the said complainant *G. D.* of any and what estate in or near the town of ——— in the said county of ——— formerly the estate of *G. G.* deceased? If yea, did the said complainant accept of, or refuse or reject such offer or promise; or what did he say or pretend to insist upon at the time or times of such offer or promise? Declare all that you know or have been credibly informed and believe concerning the matters inquired after in this interrogatory, with the reasons and circumstances which induce your belief.

7. Do you know of any and what bond that was entered into and executed by the said *T. G.* in his life-time for the payment of the sum of seventy pounds and interest, or of any other and what sum of money to the complainant *G. D.*? If yea, was you present when the said bond was executed, and did you see any and what sum of money advanced and paid to the said *T. G.* or to any person, and whom by his order or for his use, either before or at or after the execution thereof, as or for the consideration of the said bond? Declare all that you know concerning the same.

8. Do you know of any other matter or thing, or have you heard or can you set forth any thing touching the matters in question in this cause that may tend to the benefit and advantage of the defendant *G. G.* besides what you have been before interrogated unto? If yea, declare the same fully and at large, as if you had been thereunto particularly interrogated.

*Interrogatories, &c. (Jones v. Telling.)*

To examine Creditors.

*Between A. B. an Infant, by his next Friend, and others ————  
 ————Complainants,  
 and  
 C. B. an Infant, by his Guardian, and others ————  
 ————Defendants.*

*Interrogatories exhibited before ———— Esq; one of the Masters of this Honourable Court, to be administered to the several Creditors of A. B. Esq; deceased, late Father of the Complainant A. B. and of the Defendant C. B. in pursuance of the Order made on the bearing of the said Cause.*

1. **D**ID you, or any and what person or persons under whom you claim, at any time, and when, pay, lend and advance any and what sum or sums of money, or sell or deliver any and what goods or things to or for the use of the said *A. B.* in his life-time, or do any and what business or work for the said *A. B.* or how or in what manner, and upon what occasion, and for what, came he the said *A. B.* to be indebted unto you, or unto such person or persons under whom you claim? Declare as you know and believe.

2. Did he the said *A. B.* give, acknowledge or make unto any person, and whom, any and what security or securities for all or any and what part of such monies so lent and advanced, goods or things sold and delivered, or business or work done, or any of them as aforesaid, or otherwise, and how? Was or were the security or securities, if any, so given or executed at the time they respectively bear date, or at any other and what time in particular? Declare, &c.

3. Was all and every, or any and what part of the money in the said security or securities mentioned or intended to be secured thereby, or which you now claim or pretend to be due to you, really and truly lent, advanced and paid to the said *A. B.* or any other person, and whom, for his use, and where, and when, and at what times respectively, and by whom, and in whose presence? Did or did you not for any time, and how long, keep back or retain all or any, and what part thereof in your hands, or in the hands of any other person, and who by name, by or with your privity, and why and upon what occasion? Declare according to the best of your knowledge and belief herein.

4. Was



4. Was and were the goods and things, or the business or work for which the said security or securities (if any) were given, or for which you now claim payment or satisfaction, really and truly sold to, or done or performed for the said *A. B.* and by his order, and by whom and when, and where respectively, and in whose presence, or otherwise and how? Declare, &c.

5. Have you or any other, and who by name, with your privity and consent or direction, or for your use, or in trust for you, at any time or times, and when, and in any and what manner, and where, and in whose presence, or otherwise, had or received, or been allowed, or have set off, or ought, as you know or believe, or can recollect, to allow, deduct or set off any and what sum or sums of money, or any other and what payment, satisfaction, deduction or allowance, and how and in what manner, and by what means, of or for, or towards any and what part of the money in the said security or securities mentioned or intended to be thereby secured, or otherwise claimed or pretended to be due to you, by or from the said *A. B.* or his estate? How much, after all just allowances and deductions, is really and truly now owing and remaining due to you by the said *A. B.* or from or out of his estate, upon the said security or securities as aforesaid, or any and which of them, or otherwise, and how and why? Declare according to the best of your knowledge and belief.

6. Was or were any and what judgment or judgments entered up against the said *A. B.* in his life-time, in any and what court or courts, at the suit of any persons, and whom, or any and what debt or debts, sum or sums of money, due or owing by or from the said *A. B.* in his life-time, at any time or times, and when in particular, assigned to you or any person and whom, in trust for you? Did you at the time of assigning any such judgment, debt, or sum, or at any other and what time, pay the person assigning the said judgment or judgments, debt or debts, sum or sums of money, or any other person, and whom for his or their use, any and what sum or sums of money for or in consideration of such assignments respectively? Was or were the sum or sums of money mentioned in the respective assignments of such judgments, debts, and monies, to have been paid as the consideration of such respective assignments, and every part thereof, or any other and what sum really and truly paid and advanced by you, for or upon account of such assignment respectively; or did you return or pay back any and what part of such sum or sums of money to the person or persons who so assigned the said judgment or judgments, debt or debts, sum or sums of money, or not? Declare.

Between *C. B.* ———— plaintiff,  
*C. D.* and others, defendants.

*An Interrogatory for the Complainant's Examination, pursuant to the Decree made in this Cause.*

HAVE you, or any other and what person or persons, and who by name, at any time or times, and when, had or made, or caused to be had or made, and by whom, or been at any time or times, and when and where present, at the making of any and what inventory or appraisement, inventories or appraisements, of all and every, or any and what part of the goods and chattels, credits and personal estate of *A. B.* deceased; and what is become thereof and of every part thereof; and where, and in whose hands or power is or are now, or late was or were the same, as you know or believe? Whether was any or what part of the goods, chattels, credits, things, and personal estate of the said *A. B.* and of what kinds and qualities respectively, omitted out of, or neglected or refused to be inserted in such inventories and appraisements, or either and which of them, as you know or believe; and if by your privity or not, or by or with the order, privity, or direction of any other, and what person or persons, as you know or believe? Whether was any and what part or parts of the goods and particulars mentioned in such inventories or appraisements, or either and which of them, any wise, and how much in each particular under-valued, and appraised below the real values thereof, as you know or believe; and was the same done by the direction or approbation, or with the privity of you, or any other person or persons, and whom, as you know or believe? What was or were the full, utmost, and real value and values of all and every such particular and particulars, as was or were so undervalued or omitted, as you know or believe?

*A Seaman died on board intestate; a Bill brought by an only Sister against his Widow and the Agents, for her distributive Share.*

DID you know *A. B.* late on board his Majesty's ship of war, called, *St. X. Y.* Esq; commander, now deceased, and in the pleadings in this cause named, in his life-time, or not? If yea, How long did you so know him before his decease, and when and where did he die? And was you for any and what

what time, on board any, and what ship, with him, and in what capacity; and intimately, or otherwise, and how acquainted with him and his family, or with any, and which of them, or not? Set forth according to the best of your knowledge, remembrance, and belief herein, with the reasons and circumstances thereof, fully and at large.

DID you know the said *A. B.* in the preceding interrogatory named, and his father and mother, brother and sister, brothers and sisters, and his family, kindred, and relations, or any, and which of them, or not? If yea—How long did you know, and how and by what means in particular came you to know them, or any, and which of them, and where did they severally live and reside? In what capacity, and how did he the said *A. B.* support himself during your knowledge of him? And have you, or have you not heard the said *A. B.* in his life-time, say or declare any thing, and what, touching the relations he had; and what person or persons was or were his nearest relation, or next of kin to him? If yea—Set forth what the said *A. B.* so said or declared, and what person or persons was or were his next relation or of kin to him. Declare all you know, have heard, and do believe, touching the several matters inquired of you by this interrogatory.

*The Seaman had a Wife, but no Issue.*

DO you know, or have you been credibly informed of the time and place of the birth of the said *A. B.* and also the time of his marriage, and of the time of his death, or of the time of any, or which of them, or not? If yea—When and where was the said *A. B.* born, and at what time, and with whom did he marry? Were there or are there any issue of that marriage, or not? Declare all you know, have heard, and do believe, touching the matter inquired of you by this interrogatory.

*That the Intestate left no Issue, or next of Kin, but an only Sister.*

DO you, or do you not know, or have you, or have you not been credibly informed, and how and by whom, that the said *A. B.* had, or left at his death, any and what issue; or any father or mother, brother or sister, brothers or sisters, or brother's or sister's children, uncle or aunt, uncles or aunts; and if  
any,



any, whom, by name particularly? Was the said *A. B.* in any manner, and how, related to the complainant *C. D.* or not? If yea—Set forth in particular their degree of kindred, the one to the other, and how made out. Do you know of any, and what person or persons, who is or are nearer, or as near of kin, and how, to the said *A. B.* as the said complainant *C. D.* or not? Set forth according to the best of your knowledge, remembrance, and belief, with the reasons and circumstances to induce your belief, fully and at large declare, &c.

*Concerning the Intestate's own Declaration.*

DID the said *A. B.* in his life-time, at any time and when, and on what occasion, acknowledge or declare, that he had a sister named *R. T.* and say any thing, and what, touching or concerning such sister, and his family, or not? And did the said *A. B.* at any time, and on what occasion, declare that any, and what person by name, was his nearest relation, or next of kin, or not? Set forth according to the best of your knowledge, remembrance, and belief herein, with the reasons and circumstances thereof, fully and at large.

*That the Complainant was the only Sister.*

DO you know, or have you any, and what reasons to believe, that the complainant *C. D.* was the sister, and the only, or one of the next of kin of the said *A. B.* or not? If yea—Set forth the reasons and grounds of such your knowledge and belief herein, fully and at large.

*To prove the Marriage of the Complainant from the Registry.*

LOOK upon the paper-writing now produced, and shewn to you at this the time of your examination, and marked with the letter *A.* Did you compare and examine the same with the register of any, and what parish or place, book or books, entry or entries, or not? If yea—Does the same contain a true copy of such register, book or books, entry or entries with which you so examined or compared the same, or not? Declare.

*For a Contempt in not answering the Plaintiff's Bill.*

1. DID you, and when, appear to the plaintiff's bill exhibited in this court against you? Did you appear in pursuance of a *subpœna* formerly served on you for that purpose; and whether have you seen, perused, or had a copy of the said bill? Do you know the contents thereof? How came you to know or understand the contents thereof; and when did you appear, and take a copy of the said bill, or had the sight of such copy, or understood the contents thereof? Declare, &c.

2. Whether did you put in your answer to the said bill within the time limited for doing thereof, or have you yet put in your answer thereunto? Declare.

*To prove Copies of Records or Decrees.*

IS or are any, and which, of the parchment or paper-writing or writings, now produced and shewn unto you at this the time of your examination, marked respectively with the letters *A, B, C, D, &c.* a true copy or copies, of any and what record or records, decree or decrees, or any other and what proceedings, in any and what court or courts? And did you, or did you not, examine the said copy or copies, or any and which of them, with the original record, decree or decrees, or how or with what original paper, parchment, book or books, entry or entries; and with whom and when did you examine the same, and where is or are such original record or records, decree or decrees, or other proceedings now remaining, as you know or believe? Declare.

LOOK upon the several parchments and paper deeds, writings, or agreements now produced and shewn to you, at this the time of your examination, and marked with the respective letters *A, B, C, D, &c.* Give an account where and when you found the same, or any and which of them, and in whose custody or power; and whether the same was found and discovered by you among any deeds and evidences, of any and what person or person? And did such deeds and evidences, and the said parchment or paper deeds, writings, or agreements, or any and which of them, upon your finding the same, appear to be carefully preserved in any closet, bureau, box or boxes, with or without locks and keys to the same? Set forth a full and particular account of the finding of the said produced parchment and paper deed, writings, or agreements, and declare what you know touching the matters in this interrogatory inquired of.

*As to the Circumstances of the Deceased.*

**DID** you know *A. B.* late of the parish of, &c. and since deceased, and for how long did you know him before his decease; and when, at, or about what time, or how long ago did he die, as you know, or for any and what reason did believe? And what circumstances or condition of life was he, or did appear to be in, for any time, and how long, next before his decease? And was he, or did he appear for any time, and how long before his death, able or unable to pay his just debts, as you know, or for any and what reason believe? And whether or no did he for any time, and how long time before his decease, use, exercise, or follow any and what trade, business, or employment; or how and in what manner did he get his maintenance or livelihood, as you know, or for any and what reason believe? And where did he usually live and reside for any time, and how long before his death, as you know, or for any and what reason believe? Declare the whole truth herein, with all the circumstances thereof, and the whole of your knowledge and belief relating thereto, together with the grounds and reasons of such your knowledge and belief.

*To prove a Bond and Warrant of Attorney.*

**LOOK** upon the bond and warrant of attorney, or writing, now produced and shewn to you, at this the time of your examination, marked respectively *A. B. &c.* Whether, or no, were the said produced writings, or was either, and which of them, ever, and when, signed, sealed, and delivered, or in any and what manner executed, by any and what person or persons, in your sight or presence, or in the presence of any and what person or persons, as you know, or for any and what reasons believe? And whether or no is your name or mark set or subscribed, or indorsed to or upon the said produced writings, or either and which of them, as a witness to the signing, sealing, delivery, or execution thereof, or of either and which of them, by any and what person or persons, or as a witness to any and what receipt or receipts, or writing or writings thereon, or on either and which of them indorsed or written? If yea—Is your name or mark so set or subscribed, of your own proper hand-writing, and of whose respective proper hand-writing; or is any, and what name or names, a mark or marks, of any and what person or persons, set, subscribed, or indorsed to or upon the said produced writings, or either and which of them, as witnesses to the signing, sealing and delivery, or execution thereof, or of either and what of them, by any and what person or persons, or as a witness or witnesses to any and what receipt or receipts, or writing or writings therein, or on either and



and which of them indorsed or written, as you know, or for any and what reason believe? And whether or no such witnesses are or is, any or either, and which of them, living or dead, as you know, or for any and what reason believe? Declare.

*To prove Money paid in part of Interest on a Bond.*

DID, or did not, the complainant ever, and when, and of whom, and in what manner, receive any, and what sum or sums of money, and to what amount, for or in respect, or in part, or on account of the principal or interest due on the bond and warrant of attorney in the next foregoing interrogatory mentioned, and now produced and shewn to you at this your examination, marked respectively *A.* and *B.* as you know, or for any and what reason believe? Or did the same complainant ever, and when, in any, and what manner, receive of and from the said *C. D.* or from any other, and what person or persons, by his order, or on his account, any and what sum or sums of money, and to what amount, for or upon any other and what account, or how otherwise, as you know, or for any and what reason believe? Declare the whole truth herein, with all the circumstances thereof, and the whole of your knowledge and belief relating thereto, together with the grounds and reasons of such your knowledge and belief.

*To prove a Will by a subscribing Witnesses.*

WHETHER or no did the said *A. E.* deceased, in the foregoing interrogatories named, ever and when and where, in your sight or presence, or in the presence of and what other person or persons, sign, seal, publish, or declare his last will and testament in writing, or any and what writing as or for, or purporting to be his last will and testament, and whether or no is the will or writing now produced and shewn to you at this the time of your examination, marked *C.* the same will the said *A. B.* so signed, sealed, published, or executed, as and for his last will and testament, as you know, or for any and what reason believe? And whether or no did you, or any other, and what person or persons in your sight or presence, at any time, and when, either when the said *A. B.* had so signed, sealed, published, or executed his said will, or at any other time, and when, subscribe or set your's and their, or any or which of their respective names or marks as witnesses thereto? And whether or no did you, and they, or any and which of them, so subscribe or set your and their, or any and which of their re-

pective names or marks thereto, in the presence of the said *A. B.* or how otherwise? And whether or no is your name or mark subscribed or set as a witness thereto, of your own proper hand-writing; and of whose respective proper hand-writing are and is any and what name or names, mark or marks of any and what person and persons, set or subscribed to or upon the said produced will or writing, as the party executing the same, or as witnesses to the execution thereof, by any and what person, as you know, or for any and what reason believe? And whether or no are such witnesses, or are or is any and which of them living or dead, as you know, or for any and what reason believe? Declare.

*To prove the Testator of sound Mind, &c.*

WHETHER or no was the said *A. B.* deceased, in the foregoing interrogatories named, at the time of his signing, sealing, publishing, or executing the will or writing marked *C.* in the next foregoing interrogatory mentioned, and now produced and shewn to you at this your examination, of good and sufficient sound mind, memory, and understanding for making his will? And was the said *A. B.* then capable, or was he then in any and in what manner incapable of understanding or disposing of his estate or effects, as you know, for any and what reason believe? Declare.

*To prove a Difference submitted to Arbitration, and an Award made thereon.*

Do you, or not, know of any and what dispute or difference that was subsisting or depending between the complainant and the defendant touching the complainant's paying the sum of ———, or any other and what sum of money, to *C. D.* in the pleadings in this cause named? If yea—When, or about what time, was such dispute or difference, and what was the nature thereof? Did or did not the said complainant, and the said defendant, and when, agree to refer such dispute or difference between them to the arbitration and determination of any, and what person or persons? And did such person or persons undertake such reference or not, fully hear the said complainant and the defendant touching such dispute or difference? If yea—When and where did such persons hear them, and did such persons as were so appointed or nominated referees or arbitrators, make any and what award, or give any and what opinion, touching the matters so referred to them? And was or was not

not the defendant made acquainted with such arbitration or opinion, and did he seem satisfied or dissatisfied therewith? And what profession or employment did such person or persons to whom such difference was then referred, then follow, and how long had such persons followed and been of such profession or business? Declare, &c.

*To prove the Plaintiff took the Defendant's Word for the Money instead of a Note.*

DID or did not the defendant, and when, offer or promise to pay the complainant any, and what sum of money, which such arbitrators or referees had awarded to be paid, or were of opinion ought to have been paid by the defendant to the complainant? Or did or did not the said defendant then offer to give the complainant his promissory note for payment of such money? And did or did not the complainant then say, he would take the word or promise of the defendant for payment of such money? And did or did not the complainant for that, or for any other and what reason, decline or refuse to take the said defendant's note for payment of such money? Declare.

*The intestate dying, C. D. married his Widow, and possessed his Effects.*

DID you or did you not know or was acquainted with *A. B.* of, &c. the complainant's late father deceased, and *C. D.* late of, &c. in the pleadings in this cause severally named, in their respective life-time? If yea—How long did you so know them, and how and by what means did you become acquainted with them respectively, and when or about what time did they severally die? Declare.

*Whether the Intestate followed the Business, and the Value of his Goods and Stock, and if fairly appraised, &c.*

DID the said *A. B.* in his life-time, follow the trade or business of a ——— and a dealer in ———, or either and which of them, or any other, and what trade or business, and where, or in what place or places? Was the said *A. B.* at the time of his death possessed of any household goods, stock in the said trades, or either and which of them, and of any other and what goods, chattels, personal estate, or effects, yea, or no? If yea—Of what did the same consist, and what was or were the value of the same respectively? Do you know or not, whether any  
G g 3 inventory,



inventory, valuation or appraisement, was, or were, at any time, and when, and by whom made or taken, of such goods, chattels, personal estate, and effects? And doth such inventory, or not, contain a full, true, and particular account of the same, together with the natures, kinds, quantities, qualities, true and utmost value of the same and every part thereof, of what omission or omissions, was or were made therein, and by whom, and for what cause or reason was or were the same so undervalued, or not inserted therein? And was or were the person or persons, who so respectively valued or appraised the same, or not, deemed, looked upon, or esteemed to be men of skill and judgment in that business? And who by name hath, since the death of the said *A. B.* possessed such household goods, furniture, several stocks in trade, chattels, and effects, every or any part thereof, or what is become of the same, as you know, or have heard, or for any reason, and what reason, believe? Declare all you know, have heard, or do believe, touching the matters inquired of you by this interrogatory, fully and at large, together with the reasons for such your knowledge and belief.

*Whether possessed of any Stock.*

WAS the said *A. B.* in the preceding interrogatory named, or not, possessed of any and what stock in the public funds, or any, and which of them, as you know, have heard, or for any and what reason believe, yea or no? If yea — What stock, or stocks, to what value or amount, and in what particular company or companies was the said *A. B.* possessed of such stock, and what is become of the same? Declare all you know, have heard, or do believe, touching or in any wise concerning the matters inquired of you by this interrogatory; and when, of, and from whom, you so heard the same, together with the cause and reason of such your knowledge and belief, fully and at large.

*To prove several Debts due to the Intestate, and upon what Security.*

DO you know of any debt or debts, sum or sums of money, due, owing, or payable to the said *A. B.* at the time of his death, by or from any person or persons, and whom by name, upon any mortgage, bond, note, or other security or securities; and in particular, of and from *F. G. H. I. K.* or any, and which of them? If yea — What debt or debts, sum or sums of money, was or were so due, owing, and payable to the said *A. B.* at such the time of his death, by or from any such person or persons in particular; and whom by name, and where now doth,  
or

or do, such several person or persons live and reside, or last lived and resided, and may be found or heard of, upon any and what mortgages, bonds, notes, or any other and what security? And which, particularly, of such debt or debts, have or hath been, at any time, and when, received, got in, or compounded for; and for how much money, or other thing particularly, and which particularly, and remain outstanding, and upon any and what security or securities? Or did the said defendants, or either, and which of them, at any time and when, take or pursue any, and what, legal, or other method, for the recovery of the same, or any and which of them, and if not, why and for what cause or reason did they neglect so to do? Declare all you know, have heard or do believe, touching or in any wise concerning all or any of the matters inquired of you by this interrogatory, fully and at large, together with the cause and reason of such your knowledge and belief.

*To prove the Time of the Defendant's Marriage, and Money received by the second Husband.*

DO you or not, know at or about what time the defendants intermarried together? If yea — When, or about what time did they so intermarry? Did the said *E. F.* (*the second husband*) or any other person or persons, and whom by name, by his order, or for his use, after such intermarriage with the other defendant, possess himself of any and what part of the personal estate of the said *A. B.* and to what value or amount? Declare all you know, have heard, or do believe, touching or in any wise concerning the several matters inquired of you by this interrogatory, fully and at large, together with the cause and reason of such your knowledge and belief.

*To prove Money laid out on the Son during his Apprenticeship.*

Do you, or do you not know, or can you, or not, set forth what sum or sums of money the defendants, or either of them, did expend and lay out in clothes, and other necessary things, for the said *T. Z.* during the time of his apprenticeship? If yea — What sum or sums of money did the said defendants respectively lay out, or expend, or reasonably deserve to have for such clothes and necessary things, so by them found and provided for the said *T. Z.* during such the time of his said apprenticeship, as aforesaid, as you know, have heard, or do believe?

*To prove Money laid out in the Purchase of Messuages, Lands, and Rents, according to Deed or Agreement.*

WHETHER or no did the said *A. B.* in the foregoing interrogatories named, or did you, or any other person or persons, and whom by name, as trustee or trustees, agent or agents, for him, or how otherwise for or on his behalf, ever and when, in any and what manner, purchase of, any person or persons, and whom by name respectively, any and what messuages, lands, tenements, rents, hereditaments, or any other, and what estate or estates? If yea—Where was or were, is or are, such messuages, lands, tenements, rents, hereditaments, or estate or estates, respectively situated; and what consideration or considerations was or were paid or given, or agreed to be paid or given; and when, and by whom, and to whom, for such purchases respectively? Was, or were, any and what sums of money, and to what amount, due or owing from, and unpaid by the said *A. B.* at the time of his death, to any person or persons, and whom for or on account of all, or any, and what part, of the purchase money, or other and what consideration paid or given, or agreed to be paid or given, for all or any, and which of the said messuages, lands, tenements, rents, and hereditaments, or other estate or estates, or any, and what part thereof so purchased by or for the said *A. B.*? Hath or have such sum or sums of money, or any and what part thereof, and to what amount, been at any time or times, and when, since the death of the said *A. B.* paid, and by whom; or doth, or do, all or any, and what part of such sum or sums of money, and how much in the whole, now remain due, owing, or unpaid, and to whom? Declare, &c.

*The purchased Premises subject to a Mortgage, and Ejectment brought for the Recovery of the Possession.*

WHETHER or not do you know all, or any, and which of the messuages or tenements, lands, hereditaments, and premises, in the pleadings in this cause mentioned to have been purchased by the complainant's son *X. Z.* in the pleadings in this cause named, and which of them? And can you set forth, whether the same, or any and which of them were, or was, at that time, subject to any and what mortgage, and when, and to whom by name made, and for what sum, and whether any, and for what, application, or applications, were, or was, at any time or times, and



and when, and in what manner, and by, and to whom made, for payment of the money due on the said mortgage, or any and what part thereof, and what was the end or result of such application, or applications, or any and which of them; and do you know, or can set forth, whether any and what action or actions in ejectment, was or were, at any time, and when, after the making of such purchase, commenced, and by and against whom, for the recovery of the possession of the said premises, or any and what part thereof, and what proceedings were held therein; and by whose means, or for or upon what reason or account such action or actions was or were commenced and prosecuted: and whether the same might have been prevented, or not, and by what means? Set forth the particulars at large, according to the best of your knowledge, remembrance, information, and belief, with the reasons for such your belief.

*An Assignment of such Mortgage executed.*

WHETHER or not was you at any time, and when, retained or employed, and by whom, and for, and on whose behalf, to procure any and what indenture or indentures, or other writing or writings, touching, or in any wise, and how, concerning the said premises, in the second interrogatory mentioned, or any and which of them, to be signed or otherwise and how executed, and by whom? And did you prove the same, and when, to be accordingly so signed or executed, and by whom; and was, or were any, and what alteration or alterations, made therein, or in any, or either, and which of them, and by whom previous to the signing or execution thereof, or not; and why, or for what reason, and at whose instance, and by or with the orders, consent or privity of all, or any, and which of the parties thereunto? Was or were such alteration or alterations, or any and what consideration then paid or given, to the person or persons so signing or executing the same, or not, and when and by whom? Declare what you know, have heard, or believe touching the matters inquired after by this interrogatory, with the reasons for such your belief, at large.

*To prove what the several Messuages were yearly worth, to be let at; and whether out of repair, and what it would cost repairing.*

DO you know a messuage or tenement in, &c. a messuage or tenement in, &c. and a messuage or tenement in, &c. or any, and which of the said messuages or tenements? Did know the same, or any and which of them, in the years 17 , and 17 ,  
or

or in either and which of these years? Are you a judge of the value of houses in ———, or conversant therein? If yea—What was the yearly value of the said three messuages or tenements, respectively, or what yearly rent were the same, or any and which of them, respectively worth, to be let upon leases to solvent tenants in the said years 17 , and 17 , or in either of the said years? What was the state and condition of the said houses, or of any and which of them; were the same in good tenantable repair, fit for habitation? And was, or were any, and which of them, in good tenantable repair, fit for habitation? And was, or were any, and which of them, uninhabitable or empty, and if uninhabitable or empty, why or for what cause or reason? And what sum or sums of money will it cost or be worth, or would it cost or be worth, in the said year 17 , to put the said houses, messuages, or tenements, and every or any of them, in tenantable repair, fit for habitation? Declare all you know, have heard, remember, or believe, touching the several matters inquired after by this interrogatory, with the causes and reasons thereof, at large.

*To prove Money laid out for Meat, &c.*

DID, or did not the said *A. B.* in his life-time, and the said *C. D.* since his decease, or from what time to what time, find and provide for the said complainant (or defendant) meat, drink, washing, lodging, and any other and what necessaries? And what did they, the said *A. B.* and *C. D.* respectively desire to have for such, the board, lodging, maintenance, and necessaries, so found and provided by them, respectively, for the said complainant (or defendant) by the year, month, or week, to the best of your judgment and belief? And did, or did not, the said *A.* in his life-time, and the said *C. D.* since his decease, respectively pay, lay out, and expend any, and what sum or sums of money, for and on account of the said complainant (or defendant)? If yea—When, or about what time or times, and to whom, and for what purpose did they so respectively pay, lay out, and expend the same? Declare all you know, remember, or do believe touching the matters inquired after by this interrogatory, and how or by what means you are enabled to depose thereto, with your reasons therein fully and at large.

*To a ——— Schedule.*

LOOK upon the paper-writing now produced and shewn unto you, at this the time of your examination, marked with the letter *A.* purporting to be a copy of the schedule to the answer of the defendant *Y. Z.* to the complainant's bill in this cause, and carefully peruse and inspect the several charges or items therein. Did or did not the said *A. B.* in his life-time, and the said *Y. Z.* the said defendant, since his decease, respectively pay, lay out, or expend at or about the respective times, and to the several persons, and for the purposes therein mentioned, all or any, and which of the sums of money therein charged or mentioned? And set forth how, and by what means you are able to depose to the matters, with your reasons therein, at large.

*Interrogatories for a Modus.**Interrogatories to be administered to Witnesses, &c.*

1. **D**O you know the parties, the complainants and defendants in the title of these interrogatories named, or either and which of them? If yea; how long have you known them respectively? Declare.

2. Do you or not know, or are you or not acquainted with, and for how long have you known or been acquainted with the parish of *Giggleswick*, in the county of *York*, in the pleadings in this cause mentioned; and do you or not know a piece or parcel of land in the said parish of *Giggleswick*, called the *Long Ley*? If yea; how long have you known the same, who by name is, or are now and have been for any and what time the owner and occupier thereof, and how long has the said *Thomas Clapham* been the owner or occupier thereof, as you know or believe? Declare.

3. Was or was not the said *Long Ley* before the said *Thomas Clapham* became the owner and occupier thereof, and had it not from time immemorial, or from what time in particular, been part and parcel of any and what farm, called by any and what name, and in what parish situate, and consisting of any and what quantity of lands; and is the said farm an ancient or modern farm, and who is or are the owners or occupier or occupiers thereof; and has or has not the said piece of land called the *Long Ley* been, and from what time, separated from the said farm, and how and by what means, and for what reason in particular



ticular has the same been so separated therefrom, as you know or believe? Declare.

4. Do you or not know a piece or parcel of land in the said parish of G. called the *Acre*? If yea; how long have you known the same, and who by name is now and hath been for any and what time the owner or occupier of the said *Acre*, and who was then before the owner or occupier thereof by name, and how long has the said defendant *John Carr* been the owner or occupier thereof, as you know or believe? Declare.

5. Was or was not the said *Acre* before the said *John Carr* became the owner and occupier thereof, and had it not from time immemorial, or from what time in particular, been part and parcel of any and what farm called by any and what name, and in what parish situate, and consisting of any and what quantity of lands; and is the said farm an ancient or modern farm, and who is or are the owner or owners, occupier or occupiers thereof; and has or has not the said piece of land called the *Acre* been, and from what time in particular, separated from the said farm, and how and by what means, and for what reason in particular, has the same been so separated therefrom, as you know or believe? Declare.

6. Hath or hath not the owner or occupier for the time being of the said farm called ———, or any person on his behalf from time immemorial, or from any and what time, paid, or caused to be paid unto or for the use of the vicar of the said parish of G. for the time being, or his lessee or lessees yearly, any and what particular sum of money as a modus, or ancient, or how otherwise in particular, for or in lieu and satisfaction of all or any, and which of the vicarial or other tithes arising from such farm and lands, or which of them? And if yea; hath or hath not such modus or ancient payment been invariably, or how otherwise, received and accepted by the said complainant, or any and which of the former vicars thereof; and how and in what manner, and to whom and when, and for and in lieu of what in particular hath such sum of money been paid and accepted; and hath or hath not any small vicarial, or what tithes in particular in kind been paid, taken or gathered off and from such farm or lands by any person, and who, as you know or believe? Declare.

7. Have you or not heard any old person or persons, who are or is now dead, say or declare any thing relating to the said modus, payment, or the acceptance thereof, in the former interrogatory mentioned, or in any manner relating thereto, or to the farm or lands before mentioned, paying or not paying small vicarial, or any and what tithes in kind? If yea; who was or were such person or persons, and how old was she or they when such declaration was made or said, and when did he, she or they

they die, and where did he, she or they die? Set forth all you have heard relating to the several matters aforesaid, and of the manner of satisfying of the vicarial tithes arising from the said farm and lands, and each of them, and all other the matters inquired after by this interrogatory, according to the best of your knowledge, remembrance and belief, with the reasons for your belief at large.

8. Hath or hath not the owner or occupier for the time being of the said farm called ———, or any person on his behalf, from time immemorial, or from any and what time, paid or caused to be paid unto or for the use of the vicar of the said parish of G. or his lessee or lessees yearly, any and what particular sum of money, as a modus or ancient, or how otherwise in particular, for and in lieu and satisfaction of all or any and which of the vicarial or other and what tithes, arising from such farm and lands, or which of them? And if yea; hath or hath not such modus or payment been invariably, or how otherwise, received and accepted by the said complainant, or any and which of the former vicars thereof, and how and in what manner, and to whom and when, and for and in lieu of what in particular hath such sum of money been paid and accepted; and hath or hath not any small vicarial, or what tithes in particular in kind been paid or gathered off and from such farm or lands by any person, and who by name, as you know or believe? Declare.

9. Have you or not heard any old person or persons, who are or is now dead, say or declare any thing relating to the said modus or payment, or the acceptance thereof, in the former interrogatory mentioned, or in any matter relating thereto, or to the farm or lands before mentioned, paying or not paying small vicarial, or any and what tithes in kind? If yea; who was or were such person or persons, and how old was he, she or they when they died, or when did he, she or they die? Set forth all you have heard such person or persons say or declare relating to the matters aforesaid, and of the manner of satisfying of the said vicarial tithes arising from the said farm and lands, and each of them, and all other the matters inquired after by this interrogatory, according to the best of your knowledge, remembrance and belief, with the reasons for your belief, at large.

10. Is or is not the vicarage of G. endowed of the tithe of hay, arising from the parcels of land called the *Long Ley*, and the *Acre*, or each and which of them, or any other and what lands within the said parish of G.; and have or hath the vicar or vicars thereof, or any of them, had or received the tithes of hay arising from the same, or either and which of them, or any and what satisfaction for such tithe of hay; or do or do not the tithes of hay arising of and from the said parcels of land, or either and which of them, or what other lands in the said parish of G. belonging to the rector thereof; and who by name is the rector or

or rectors of the said parish of G. and what is the reputation of the said parish with respect thereto, and to whom is the said tithe of hay due or belongs; and has or has not the tithe of hay arising from any and what lands in the said parish of G. when received or collected by the receiver or vicar of the said parish, or which of them by name, or for their or which of their use, or any and what modus, rent, payments, or other satisfaction for the same made and received by the ———, and which of them by name? Set forth all the instances you know relating to the matters inquired after by this interrogatory, and the times, and all other the matters thereby inquired after, as fully as you are in any manner able.

11. Was you or not authorized or impowered by any and what person by name to receive or collect tithes due and payable to him, or the modus or ancient payments in lieu thereof, from the said defendants, or either and which of them? If yea; look upon the several paper-writings now produced and shewn to you at this the time of your examination, marked with the letters ———; are the same, or either and which of them, of the person's hand-writing or not; If yea; did you or not receive the several sums of money in the said produced paper-writings, or either and which of them, of and from the persons named therein, or which of them, or on their behalf, to and for the use of any and what person by name? Declare.

12. Look upon these several paper-writings now produced and shewn to you marked with the letters ———; are you or not acquainted with the character or manner of hand-writing of the person or persons who wrote the said produced paper-writings, or either and which of them, or whose name or names are set and subscribed thereto? And if yea; have you or not seen such person or persons, or which of them, write, or how came you acquainted therewith; and of whose hand-writing is or are the said produced paper-writings, or either and which of them, or the name or names set and subscribed thereto, as to your knowledge or belief? Declare.

13. Look upon the several deeds and writings now produced and shewn to you, marked with the letters ———; was you present, and did you see the said produced deeds, papers or writings, or any and which of them, signed, sealed, published and declared, or in any and what manner executed by any and what person or persons by name? If yea; are you not a subscribing witness to the execution thereof, or of any and which of them; and is or is not your name set and subscribed as a witness thereto or to any of them of your own proper hand-writing or not, and is or is not the name or names of the other person or persons whose name or names are set and subscribed thereto, or to which, of their own proper hand-writing, as you know or believe? Declare.

14. Look



14. Look upon the several instruments now produced and shewn unto you, marked with the letters ———; what are they, and what do they purport to be, and when and in what places were the same found, and where were and have the same been kept and deposited, as you know or believe; and from whom did you receive and get the same into the custody or power? Declare.

15. Look upon the several paper-writings now produced, and shewn to you marked with the letters ———; what are the same, and what do they purport to be? Did you or not examine the said produced papers or writings, or any and which of them, with any and what original instruments, and when and where, and with whom, and in what manner did you examine the same respectively; and are or are not such produced paper-writings, or any and which of them, a true copy or copies of the original instrument or instruments, of which the same purport to be a copy or copies, or do the same differ or vary therefrom, in any and what respect, as you know or believe? Declare.

*Lastly*, Do you know of any other matter or thing which may tend to the benefit of the said defendants touching the matters in question in this cause? If yea; set forth the same fully and at large.

*To prove the Death of Witnesses to a Deed, and their Attestations, &c.*

*Interrogatories to be exhibited to Witnesses to be produced, sworn and examined, in a certain Cause now depending and at Issue in the High Court of Chancery, wherein A. B. is Complainant, and C. D. Defendant, on the Part and Behalf of the said Complainant.*

1. **D**O you know the parties, complainant and defendant, in the title of these interrogatories named, or either and which of them, or not? If yea; how long have you known or been acquainted with them, or either and which of them, and did you know *A. A. B.* late of ——— in the county of ——— deceased, in the pleadings of this cause named in his life-time or not? And if yea; how long did you know or was you acquainted with him before his death? Declare.

2. Did you or not know *D. D.* late of ——— in the county of ——— deceased, and *R. R.* of the same place also deceased, or either and which of them, in their or either of their life-time, and were you acquainted with the character or manner of handwriting of the said *D. D.* and *R. R.* respectively or either, and which of them? If yea; look upon the paper or parchment writings

writings or exhibits now produced and shewn to you at this the time of your examination, marked respectively with the letters *A.* and *B.* purporting to be an indenture of mortgage granted by the said *C. D.* to the said *A. A. B.* deceased, for securing the repayment of the sum of 400 *l.* by the said *A. A. B.* lent to the said *C. D.* with interest at 5 *per cent.* and purporting to be a bond and warrant of attorney executed by the said *C. D.* for the better securing the said 400 *l.* and interest, and look at the names or characters "*D. D.*" and "*R. R.*" set and subscribed thereto, as the witnesses attesting the sealing and delivery of the said exhibits, and also look at the back of the said exhibit marked with the letter *A.* and the names or characters "*D. D.*" and "*R. R.*" set and subscribed as witnesses to the receipt for the consideration money therein mentioned, and declare whether the same be of the respective hand-writing of the said *D. D.* and *R. R.* as you know or for any and what reason believe, or of whom else.

3. Do you or not know whether *D. D.* in the former interrogatory named be dead? If yea; when did he die, was you present, and did you or did you not see him expire, or did you assist in laying him out after he was dead, or how or in what manner or by what means did you become acquainted with the death of the said *D. D.* or have you any and what reason to believe he is dead? Declare.

4. Look upon the paper-writing now produced and shewn to you at this the time of your examination, and marked with the letter —, did you compare and examine the same with the register of the said parish, where the said *D. D.* died, or any other and what parish or place, book or books, entry or entries, or not, and with whom, and in whose presence? If yea; does the same contain a true copy of such register-book or books, entry or entries, with which you so examined or compared the same or not? Declare.

5. Do you or not know whether *R. R.* in the second interrogatory named be dead? If yea; when did he die, was you present, and did you or did you not see him expire, or did you assist in laying him out after he was dead, or how or in what manner or by what means did you become acquainted with the death of the said *R. R.* or have you any and what reason to believe he is dead? Declare.

6. Look upon the paper-writing now produced and shewn to you at this the time of your examination marked with the letter —, did you compare and examine the same with the register of the said parish, where the said *R. R.* died, or any other and what parish or place, book or books, entry or entries, or not, and with whom and in whose presence? If yea; does the same contain a true copy of such register, book or books, entry

or

or entries with which you so examined or compared the same or not? Declare.

7th. Did you at any time, and when in particular, and in whose presence, hear the defendant *C. D.* say any thing, and to whom concerning the mortgage in the pleadings of this cause mentioned, and the money due thereon; and if yea, set forth particularly what the said defendant said in the very words used by the said defendant, to the best of your recollection and belief, or the purport of what he so said?

Lastly. Do you know any matter or thing not hereinbefore particularly enquired after which may tend to the benefit or advantage of the said complainant in this cause; if yea, set forth the same fully and at large as if you had been thereunto particularly interrogated.

*Petition for an Infant Mortgagee to convey, pursuant to stat.  
7 Ann. c. 19.*

*To the Right Honourable the Master of the Rolls.*

*The Humble Petition of G. H. of, &c.*

SHEWETH,

**T**HAT by indentures of lease and release, duly executed, bearing date, &c. made between your petitioner on the one part, and *A. B.* of, &c. gentleman, of the other part, your petitioner, for the consideration therein mentioned, did grant, release and confirm unto the said *A. B.* all that messuage, &c. to hold to the said *A. B.* his heirs and assigns for ever, redeemable by your petitioner, his heirs and assigns, on payment of the sum of 500 *l.* and interest at a day therein mentioned and since past.

That the said principal sum of 500 *l.* was not paid pursuant to the proviso of redemption in the said release mentioned, but the same is still due and owing, and the said *A. B.* is dead, having first made his will, and thereof appointed *C. D.* of——— afore-said, Esquire, sole executor, who hath duly proved the said will, and taken upon himself the execution thereof; and is thereby become intitled to receive the principal money and interest due on the said mortgage; but the said testator having left *E. F.* his grandson (an infant under the age of 21 years) his heir at law, the legal estate of and in the said mortgaged premises is now vested in the said infant.

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H h

That



That the said *C. D.* hath called upon your petitioner for payment of the principal and interest due on the said mortgage, and your petitioner is ready to pay the same on having a re-conveyance of the said mortgaged premises to him and his heirs, or to such other person or persons as he shall direct. And your petitioner is advised that the said *E. F.* the infant in whom the legal estate of and in the said premises is now vested as aforesaid, is a trustee thereof within the intent and meaning of the statute made in the seventh year of the reign of her late Majesty Queen *Anne*, intituled, "An act to enable infants who are seised or possessed of estates in fee in trust, or by way of mortgage, to make conveyances of such estates."

Your petitioner therefore most humbly prays your Honour that it may be referred to one of the Masters of this honourable court to examine and certify how the said estate is vested in the said *E. F.* the grandson, and whether he is an infant and trustee, or mortgagee, within the intent and meaning of the said act of Parliament; and to whom the money due on the said mortgage ought to be paid.

*And your petitioner shall ever pray, &c.*

*Conclusion of the State of the Case, to be left with the Master.*

**A**ND it is hereby humbly submitted that *E. F.* the infant, is a trustee or mortgagee within the intent and meaning of that act of Parliament, and as such may under the direction of the court join in a conveyance of the said estate.

*Petition to confirm the Master's Report, and that the Infant may convey.*

*To the Right Honourable, &c.*

*The humble Petition of, &c.*

SHEWETH,

**T**HAT by indentures of lease and release, &c. [State the facts as stated in the above petition.]

That by an order made by your Honour on the — day of —, 1792, it was ordered that it should be referred to Mr. — one of the Masters of this court, to examine and certify, &c. [State the order]

That, &c. [State the report.]

Your

Your petitioner therefore most humbly prays your Honour, that the said Master's said report may stand absolutely confirmed; and that the said *E. F.* the infant, may be directed, by the order of this honourable court, to release and convey the said premises herein, before and in the said indentures of lease and release comprised and mentioned, and all his estate, right, title, and interest in and to the same, unto and to the use of your petitioner, his heirs and assigns, or as he or they shall direct or appoint, upon full satisfaction and payment by your petitioner of all principal money and interest due, or to be due, on the said mortgage as aforesaid.

*And your petitioner shall ever pray, &c.*

*The Form of a Charge.*

In Chancery,

Between { *A. B.* Plaintiff,  
and  
*C. D.* and Others, Defendants.

**T**HE plaintiff's charge against the said defendant *C. D.* for the personal estate of the testator *F. G.* come to his hands.

		<i>l.</i>	<i>s.</i>	<i>d.</i>
1790.				
March 1 <sup>st</sup> .	Cash received of Mr. John Davis, a debt due to the testator	50	0	0
2 <sup>d</sup> .	The like of Mr. Joseph Turner	30	0	0
3 <sup>d</sup> .	Cash received of Mr. James Jones, interest on his bond for 200 <i>l.</i> up to the testator's death, &c.	7	0	0

And the said plaintiff craves leave to add to or alter this his charge, as he shall be advised.

*The charge is taken from defendant's examination.*

*The Form of a Discharge,*

In Chancery,

Between { *A. B.* Plaintiff,  
and  
*C. D.* and Others, Defendants,

**T**HE discharge of the defendant *C. D.* one of the executors of *F. G.* the testator, in the pleadings in this cause named to the plaintiff's charge against him for the personal estate of the said testator,

1790.

March 5th.

	l.	s.	d.
Paid Mr. <i>B.</i> the proctor, for the probate of the will, &c.	15	2	4
Paid Mr. <i>A.</i> the undertaker his bill for the funeral expences	30	9	2

And so state all the payments from defendant's examination.

**AN ACCOUNT** of the Fees due to the particular Officers of this Court, for Business and Attendance, as settled by an Order made in this Court by Lord Chancellor Hardwicke, bearing date the 28th Day of November, 1743.

## MASTERS IN CHANCERY.

**T**HAT the masters or their clerks do not demand or take any greater fees or rewards for the business done, or to be done in their respective offices, than the fees or rewards following, viz.

	l.	s.	d.
For every oath, affirmation or attestation upon honour	0	1	0
For taxing costs for the plaintiff's not filing his bill, or not proceeding to reply; or for the defendant's not appearing in due time	0	2	0
For taking the acknowledgment of every deed to be inrolled	0	2	0
For the caption of every recognizance for each conusor	0	2	0
For the examining exemplifications by two masters; to each master for every skin of parchment	0	2	0
For every report or certificate made upon orders before hearing	0	10	0



	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every report or certificate after hearing, or in matters of lunatics, bankrupts, or infant trustees, or mortgagees to convey, and in other matters referred to them, where no cause is depending in court	1	0	0
For every summons	0	2	0
For allowing and signing every advertisement to be put in the <i>Gazette</i>	0	10	0
For ingrossing one part of every deed allowed by the master, each skin	0	10	0
For allowing and signing every deed, recognizance, account, or other matter allowed and signed by the master	0	2	6
For signing and certifying every exhibit proved before a master	0	2	6
For copies of drafts of conveyances to be settled by the master, and of depositions, interrogatories, ingrossed for examining the parties, and of examinations eight-pence a-side, to be paid by the party requiring the same	0	•	8
For copies of drafts of conveyances to be settled by the master, and of deeds brought before the master, and of depositions, interrogatories ingrossed for examining the parties, and of examinations, eight pence a-side, to be paid by the party requiring the same	0	0	8
For copies of drafts of reports, charges, discharges, bills of costs, accounts, objections, and of schedules of writings, and other matters brought before a master, to be paid by the party requiring the same, six pence <i>per</i> side	0	0	6
For the return of a sheriff's patent	0	2	6
For an examination besides the oath	0	2	6
For writing every receipt for books, writings, or other things delivered out by a master	0	2	6
For settling, adjusting and satisfying bills of costs under commissions of bankruptcy	1	0	0
For subscribing the receipt for trust-money re-invested in <i>South-sea</i> stock, or annuities paid off, pursuant to act of parliament	0	1	0
For expunging scandal or impertinence out of every record	0	2	6
For striking a jury from each party	1	0	0

H h 3

When

When a master is requested to go out of his office to attend any person to administer an oath, or do any matter belonging to his office, a reasonable recompense ought to be made such master for his trouble and loss of time.

## THE CLERK'S FEES.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For drawing and transcribing every report or certificate - - -	0	5	0
For drawing and ingrossing every recognizance with the condition - - -	0	5	0
For writing each bidding for estates before a master	0	2	6
For writing the <i>jurat</i> of <i>affidavits</i> taken in matters not depending in court, as also the caption of every recognizance - - -	0	0	6
For attending the court with deeds and writings each day - - -	6	6	8

That the masters and their clerks do observe and perform the several rules and regulations following, *viz.*

In all copies of drafts of reports, charges, discharges, bills of costs, accounts, objections to drafts of reports, and schedules of writings, and other matters brought before a master; the bodies of such copies as are written without a column of figures are to contain fifteen lines in a side, and six words in a line, except the titles, which are to contain four words in a line.

Articles of accounts to contain fifteen lines in a side, and four words in a line, besides the column in figures on the right hand, and dates and times in the left hand column.

Copies of accounts containing numbers, as of *South-sea* and other bonds in the public companies or the like; and copies of accounts and of schedules of accounts, consisting of more than one column of figures, being rendered very obscure, and in some cases unintelligible; if such numbers and figures be wrote in words at length, therefore that such copies may be understood by preserving the numbers and columns, the same are to be wrote in figures according as figures are used in the originals, or drafts of the accounts or schedules of accounts so copied.

In copies of bills of costs, the year of every term to be wrote in figures by way of title; other dates and times to be wrote in figures, but not in the margin on the left hand, which perplexes the taxations of such bills.

All deeds allowed by a master are to be fairly engrossed by his clerk, or some person employed by him, and that with such dispatch as may create no delay to the suitors.

Any

Any person shall be at liberty to take a copy of a report without the schedule, or of the schedule without the report. And in cases where distinct demands of several parties, creditors, are comprized in one report, any person is to be at liberty to take a copy of so much of the report or schedule as relates to any distinct or separate demand.

### THE OFFICE OF REGISTER OF THE COURT OF CHANCERY.

THAT the Register and his deputies, and clerks, do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, viz.

*l. s. d.*

For drawing all orders for each side 3 s. which is to contain not less than twenty-four lines in a side, and seven words in a line, one with another (except the title which is to be four words in a line, one with another) dates and sums to be in figures as heretofore, <i>per</i> side	-	-	0	3	0
For the entry of each order <i>per</i> side	-	-	0	0	6
For all orders whereby agreements signed by the parties, or their clerks in court, are made orders of the court, 3 s. <i>per</i> side, to be paid by the party drawing up the order, as in other cases, and 3 s. <i>per</i> side by the other party on applying for a duplicate thereof, but the whole fee of 6 s. <i>per</i> side is not to be taken of any one party	-	-	0	3	0
For entry of all such orders, 6d. <i>per</i> side	-	-	0	0	6
For copies of all orders, exceptions and petitions, for the first side 1 s. 6 d. and for every other side 1 s. each side to contain not less than twenty lines, and not less than six words in a line, one with another (except the title, which ought to be as above). In this <i>item</i> is contained the Register's fee for signing	-	-	0	1	0
For filing every report, certificate, and award	-	-	0	0	4
For the copies of all reports, for the first side 1 s. 6 d. and for every other side 1 s. the body to contain the same number of lines and words as in the fifth <i>item</i> <i>per</i> side	-	-	0	1	0
For copies of all minutes taken by the Register 1 s. 6 d. for the first side, and 1 s. for every side after, to be wrote as the copies of orders are to be wrote	-	-	0	1	0
					For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For entering a cause for hearing (except those set down by the fix clerks, for which nothing is paid)	0	1	0
The senior Deputy-Register attending the Lord Chancellor has the privilege of setting down eight causes in every term; and the senior Deputy-Register attending the Master of the Rolls has the privilege of setting down six causes every term, for setting down of each of which causes twenty shillings	1	0	0
For every decree pronounced	0	11	0
For every dismissal on hearing a cause	0	3	4

The Register receives for the Master of the Rolls, for every decree or dismissal, 6 *s.* 8 *d.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
To one of the four deputies for his hand to all certificates	0	1	6
And for the clerk writing the same	0	0	6
For filing every election	0	0	6
For a search in the old books for any order or decree for every term	0	0	4
For entry of all attachments and proclamations, for each	0	0	2
For all rules of course to answer, reply, produce witnesses, and for publication for each	0	0	4
For entry of all appearances on contempts	0	2	10
For a bill of costs for want of a bill filed in time	0	0	4
For all copies of attachments, proclamations, commissions of rebellion, &c. for each	0	0	4
For entry of all pleas and demurrers	0	1	0
For the clerk's drawing and writing all certificates	0	0	6

This 6*d.* is paid for searching and examining the books of orders, as well as for the drawing.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For poundage on paying out deposits made on filing of exceptions, rehearings, appeals, and bills of review, one shilling <i>per</i> pound	0	1	0
For examining all orders and reports, either with the clerk of the entries, or clerk of the reports, or custody of the old or new books to be used as evidence at law, 2 <i>d.</i> <i>per</i> fide	0	0	2
For every exhibit proved <i>viva voce</i> in court, and marked by the Deputy Register	0	2	6

For



	<i>l.</i>	<i>s.</i>	<i>d.</i>
For stamping printed copies of briefs and letters patent, and telling out and telling in again after the collection, 2 s. 6 d. <i>per</i> hundred	-	0	2 6
For entering of all commissions to take answers, or examine witnesses <i>ex parte</i>	-	0	0 8
But if it be a joint ordinary commission, then	-	0	1 4
For entry of all commissions to take answers, to examine witnesses in perpetual memory <i>ex parte</i> , only	0	2	0
But if it be a joint commission in perpetual memory to hear and determine	-	0	4 0
For the copy of the order for the commission, if it be required	-	0	0 4
For the entry of all amerciaments	-	0	1 0

That the register, his deputies and clerks, do observe and perform the several rules and regulations following, *viz.*

In copying of schedules of deeds, writings, and accounts annexed to reports and certificates, the dates are to be in figures in one column, and the sums in figures in another column; but where dates or sums occur in the body of orders, reports, certificates, or of such schedules as aforesaid, the same are to be copied in words at length, and not in figures; and any suitor or other person shall and may be at liberty to take a copy of a report without the schedule, or of a schedule without the report; and in cases where distinct demands of several parties or creditors are comprized in one report, any suitor or other person shall and may be at liberty to take a copy of so much of the report or schedule, as relates to any distinct or separate demand.

And whereas it has been usual, where mistakes have been made in drawing up of orders, for the Register's clerks to take *sixpence* a-side for the writing the same over again; it is ordered that if any mistakes for the future are committed by the Register, or their clerks, in drawing up orders, so as to occasion new copies to be made thereof, the suitors shall not be obliged to pay any thing to the Registers or their clerks for new copies. But if the mistakes are occasioned by the parties, or their clerks in court, or solicitors, in such case the Registers may take *sixpence* a-side for transcribing the same.

And it is hereby declared, that the Registers are not intitled to be paid for copies of orders made on hearing causes by consent, or for the copies of any other orders, decretal or interlocutory, unless such copies are required by the parties.

And it is further ordered, that in recitals contained in orders, the following rules be observed, *viz.*

*First,*

*First*, That in original decrees and orders made on hearing of causes, the recitals previous to the exhibits read, be of the substance and scope only of the pleadings tending to the points in controversy upon which the decree is founded, and be made in the most concise manner, and not to contain any recitals immaterial to the points in question.

*Secondly*, That in orders made on re-hearings and appeals, where the first order is affirmed generally, nothing be recited previous to the ordering or decretal part of the former order on hearing, which ordering or decretal part may be fully recited, if the petition of re-hearing or appeal complains of the whole order, but if such petition complains only of part of the order, then no more thereof is to be recited than is complained of, or what necessarily relates thereto. Nor is more of such petition to be recited than the points complained of, and no recital is to be made of the reasons or allegations of counsel therein assigned. But in cases where the first order is varied, the scope and substance of so much of the pleadings only as is material, and tending to the points varied, is to be recited in the most concise manner.

*Thirdly*, That in orders made on the coming in of the Master's report, or in equities reserved, nothing be recited previous to the ordering part of the original order, except such matter as necessarily leads and gives light to the order made on such reports and equities reserved, and that in the most concise manner; nor is more of such original order to be recited than what relates to the matters or points upon such occasions brought before the court.

*Fourthly*, That in orders made on ordering pleas or demurrers, where the plea or demurrer is over-ruled, the order is not to contain any recital of the substance thereof, or of the pleadings; but when the same is allowed intirely or in part, proper recitals may be made under the restrictions contained in the first rule touching orders made on hearings.

*Fifthly*, That in orders made on hearing petitions, the recitals are to contain no more than a short state of the material facts on which the prayer of the petition is grounded.

#### THE OFFICER OR REGISTER OF AFFIDAVITS.

THAT the Register of affidavits, his deputy or clerk, do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, *viz.*

	l.	s.	d.
For filing every affidavit with or without schedules, or			
other papers thereto annexed	-	-	0 0 4
			For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For registering every affidavit, for each side -	0	0	4
For the copy of every affidavit, for each side -	0	0	4

The first side to contain nineteen lines, and every other side seventeen lines, and six words in each line, except the title of the cause and schedules of accounts annexed to such affidavits, which are to contain four words in a line, besides the column of figures on the right hand, and dates and times in figures on the left hand.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the Register, or his deputy's hand, when required -	0	1	0
For a certificate under the Register, or his deputy's hand, when required -	0	1	0
For every search for an affidavit, for each term 6 <i>d.</i> with the liberty of reading it over if found	0	0	6

If the affidavit is found, and a copy taken, nothing is to be paid for the search of that term.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For searching for and taking an original affidavit off the file, in order to attend the Lord Chancellor or Master of the Rolls therewith, or to be made use of in any court -	0	6	8
For attending therewith at the Lord Chancellor's, or at any of the courts at <i>Westminster</i> or in <i>London</i> , each time -	0	6	8
For examining the copy of every affidavit with the original, in order to make use of such copy as evidence in any other court than the court of Chancery -	0	1	0
For carrying an original affidavit by the Register or his deputy, to any assize, for each day, including horse-hire and expences -	1	1	0
For trouble, attendance, and taking security to return an original affidavit to the office, when by order of the court such original affidavit is directed to be delivered to an associate or clerk of assize, to be made use of at the assizes, and which is now become the common practice to save the expence of the suitors of its being carried thither by the Register or his deputy -	0	6	8

That the Register of affidavits, and his deputy or clerk, do observe and perform the following regulations, viz.

Whereas

Whereas it has been usual upon filing *affidavits* with schedules, certificates, or any other papers annexed thereto, that every such annexed paper has been charged for as a distinct *affidavit*, and the suitors have paid for the filing of the Register's or his deputy's hand to each of such annexed papers, several and distinct fees, according to the number of such papers; it is ordained, that all papers annexed to an *affidavit* be considered as parts thereof; and that the suitors in every such case do pay no more than one fee for the filing, and for the Register's or his deputy's hand.

### THE OFFICE OF EXAMINERS.

THAT the examiners, and the examining and copying clerks, do not demand or take any greater fees or rewards for the business done or to be done in their offices, than the fees or rewards following, *viz.*

### THE EXAMINERS FEES.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the examination of every deponent, defendant, or delinquent	-	-	0 2 0
For copies of all manner of depositions, interrogatories, or other pleadings which they have warrant to copy, for every sheet, containing fifteen lines, and six words in a line	-	-	0 1 11
For all manner of certificates whereunto their hands are required	-	-	0 2 0
For the examination of any copy or book of depositions which is to be given in evidence in another court with the original	-	-	0 6 8
For the examination of every deponent unto whom the examiner is required to travel, if it be near at hand	-	-	0 6 8

If far off, or the examiner has occasion to go often, what more the party shall think fit whom it concerns.



## THE COPYING CLERKS FEES.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For their labour in writing a note of every deponent's name, title, and place of abode, to be left with the adverse party's clerk in court, and shewing every deponent at such clerk's seat, and getting every deponent, defendant, or delinquent, sworn	-	0	0 6
For copies of all manner of depositions, interrogatories, or other pleadings which they have warrant to copy, for every sheet containing fifteen lines, and six words in a line	-	-	0 0 2

For their attendance in court when required, with any deeds or writings left in their custody, as also for their labour in searching for any record a reasonable satisfaction, according to such their attendance and labour.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For their labour in writing all manner of certificates, to which the master-examiner's name is required to be set	-	-	0 0 6
For their labour in examination of any copy or book of depositions, which is to be given in evidence in another court, with the original	-	0	3 4
For their labour to get any deponent, defendant, or delinquent, sworn abroad, if near at hand, besides stamps	-	-	0 3 4

If far off, what more the party whom it concerns shall think fit, according to such attendance.

That the examiners and the examining and copying clerks do observe and perform the several rules and regulations following, viz.

The examining and copying clerks are not to take any gift or gratuity whatsoever of the suitors, their clerks in court, solicitors or agents for office-business done within office-hours. Nor shall they take any such gifts or gratuities for office business done out of office-hours, unless such gift or gratuity be first settled and allowed by the right honourable the Master of the Rolls, upon application to be made for that purpose; and they are constantly to attend during the whole time of office-hours.

And in regard the examining clerks are not intitled to any fee whatsoever, and their employment is of great trust, and requires

requires great integrity, skill, and constant attendance, they are to have such an allowance from their principals as they may be able to subsist on, without being liable to any temptations to betray the secrets of the office, or to be guilty of any exactions; and the rather, because the misbehaviour of the examining clerks may affect the office of the examiners by whom they are nominated.

And whereas by an order of the twenty-first day of *October* in the fourth and fifth years of the reign of King *Philip* and Queen *Mary*, it was ordered, that the examiner should not deliver copies of the depositions of witnesses by them examined, without copies of the interrogatories; it is ordered, that the said order be varied in this particular, that neither party shall be obliged to take an office-copy of his own interrogatories.

### THE SIX CLERKS OFFICE.

THAT the six clerks, sworn clerks, and writing clerks, do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, *viz.*

### THE SIX CLERKS FEES.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Out of all copies of bills, answers, pleas, demurrers, replications, rejoinders, depositions, interrogatories, and other records usually dispatched in their offices, 4 <i>d.</i> per sheet	-	-	0 0 4
Out of all exemplifications of bills, answers, and proceedings in the same office, 14 <i>s.</i> per skin	0	14	0
Out of every commission of rebellion	0	6	0
For examining and signing every decree of dismissal	0	17	0
For every prisoner brought up to the court by <i>habeas corpus</i> to the two six clerks then attending the court, one fee of	0	3	4
For every assignment of a guardian for infants in court, to the two six clerks then attending, one fee of	0	3	4
For the custody of every bond entered into by order of the court to the senior six clerks not towards the cause	0	3	4
For every search for a record transmitted into the record-room, which is not usually transmitted thither until the same has been filed by the space of			

twelve

# FEES OF OFFICERS, &c.

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*l. s. d.*

twelve months or upwards, but during that time lies in the respective six clerks study, for the sworn clerks and writing clerks to resort to without fee	0	1	0
Out of every cause carried on in the petty bag, for every term, wherein any rule or rules is or are entered with them, as other matters done by them	0	3	4
To the aiding six clerk for his attendance on his Majesty in council with the sheriff's roll, when a person is pricked down for sheriff, and is afterwards excused, and named another in his room	-	1	1 0

The six clerks, as comptrollers of the hanaper, are intitled unto the several fees following, *viz.*

*l. s. d.*

For comptrolling and making up the accounts of the hanaper yearly, the sum of	-	-	10 0 0
For ingrossing the comptrolment book to be transmitted to the Exchequer, the yearly sum of	-	13	6 8

The six clerks are intitled unto (besides the parchment) out of the profits of the hanaper the following fees, *viz.*

*l. s. d.*

For inrolling of all warrants, whereby any patents, commissions, licences, pardons, leases, or other grants whatsoever that pass by and under the great seal (except such as are herein after particularly mentioned) after the rate for every skin so passing the great seal	-	-	1 0 0
For inrolling of all warrants, for all commissions of peace, of sewers, commissions of appeal from the Admiralty, commissions of policy of insurance, and commissions <i>de lunatico inquirendo</i>	-	0	1 8
For the inrolling of all warrants for all other commissions of appeal, and commissions of adjuncts	0	3	4
For the inrolling of all warrants for the custody or the revocation of a custody of a lunatic or ideot, for every of them	-	-	0 3 4
For the inrolling of the warrants for every presentation, donation, or revocation, to any rectory, vicarage, deanry, archdeaconry, chancellorship, treasuryship, or dignities to any metropolitical, cathedral, or collegiate church, or for any canonship or prebend, in any of the said churches, or for the mastership of any hospital or other ecclesiastical living, or for the grant of any presentation or presenta-			tions,

	<i>l.</i>	<i>s.</i>	<i>d.</i>
tions, <i>pro unico vel pluribus vicibus</i> thereunto, and for every dispensation and <i>commendam</i> -	0	3	4
For the inrolling of the warrants for every denization or commission of bankrupt -	0	3	4
For the writing of every exemplification of all such records as they have a right to exemplify, after the rate of every skin . . . . .	1	6	8
For every sheriff's patent, writ of assistance, writ of discharge, <i>dedimus potestatem</i> . . . . .	1	7	0
For ingrossing the patent, writ of assistance, writ of discharge, <i>dedimus potestatem</i> , the three oaths, doc- quet, parchment, and attending the sealing . . . . .	1	14	4
For the recognizance in a <i>Welch</i> patent, more	0	2	6

### THE SWORN CLERKS AND WRITING CLERKS FEES.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For filing every bill, and for the rule to answer, in- cluding the term-fee and stamps . . . . .	0	5	4
For an attachment . . . . .	0	7	6
	<i>l.</i>	<i>s.</i>	<i>d.</i>
Whereof the stamp is . . . . .	0	2	0
Entering with the Register, and duty . . . . .	0	1	2
Seal . . . . .	0	0	6
Sworn clerk's fee . . . . .	0	2	10
	0	7	6
For every proclamation and <i>disfringas</i> . . . . .	0	7	4
	<i>l.</i>	<i>s.</i>	<i>d.</i>
Whereof the stamp duty is . . . . .	0	2	6
Entering with the Register, and duty . . . . .	0	1	2
Seal . . . . .	0	0	6
Sworn clerk's fee . . . . .	0	3	2
	0	7	4
For a commission of rebellion . . . . .	1	0	4
	<i>l.</i>	<i>s.</i>	<i>d.</i>
Whereof stamps on the writ and docket are . . . . .	0	3	6
Entering at the Register, and duty . . . . .	0	1	6
Hanaper . . . . .	0	4	4
Lord Chancellor's purse-bearer . . . . .	0	1	0
The six clerks . . . . .	0	6	6
Sworn clerk's fee . . . . .	0	4	0
	1	0	4

For



# FEES OF OFFICERS, &c.

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l. s. d.

For a sequestration - - - 0 16 4

l. s. d.

Whereof the stamp duty is - - - 0 2 6

Seal - - - 0 0 6

Sworn clerk's fee - - - 0 13 4

0 16 4

For a *Ne exeat Regnum* - - - 0 15 10

l. s. d.

*Viz.* Stamps - - - 0 2 6

Lord Chancellor's secretary for signing - - - 0 2 6

The seal - - - 0 0 6

The sworn clerk's fee - - - 0 10 4

0 15 10

For a *Habeas Corpus* - - - 0 15 4

l. s. d.

*Viz.* Stamps - - - 0 5 6

Lord Chancellor's secretary for signing - - - 0 2 0

Seal - - - 0 0 6

Sworn clerk's fee - - - 0 6 8

0 15 4

For a *dedimus potestatem* to take an answer - - - 0 10 4

l. s. d.

*Viz.* Stamps - - - 0 3 6

Seal - - - 0 0 6

Sworn clerk's fee - - - 0 7 4

0 10 4

For every special *dedimus* by order of court - - - 0 13 8

l. s. d.

The same charges paid out - - - 0 3 0

The sworn clerk's fee - - - 0 10 8

0 13 8

For a commission to examine witnesses with the schedule of oaths - - - 0 16 4

l. s. d.

The stamps are - - - 0 2 6

Seal - - - 0 0 6

The sworn clerk's fee - - - 0 13 4

0 16 4

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For joining in commission to examine witnesses, to the clerk who joins in such commission only	0	6	8
For every special commission for dividing lands, and ascertaining boundaries, or otherwise special by order of court	1	0	8

The stamps and other out-goings are included in this  
1 *l.* 0 *s.* 2 *d.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every writ of execution upon an order	0	6	8
If an order of one side	0	6	8
If more	0	13	4
If longer, than <i>per skin</i> (besides stamps)	1 <i>l.</i>	6 <i>s.</i>	8 <i>d.</i>

Each skin to contain at least sixteen sheets, and each sheet ninety words.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every common injunction	1	3	8
<i>Viz.</i> Stamps	0	3	6
Signing by Lord Chancellor and Master of the Rolls	0	6	4
The Seal	0	0	6
Sworn clerk for making writ	0	13	4
	1	3	8

For every special injunction more than for the common injunction	0	3	4
For every term the cause is in agitation the sworn clerks on each side of the cause are intitled to a term-fee of	0	3	4
For the appearance of every defendant who appears separately by himself	0	3	4
If two or three defendants appear by the same clerk, reckoning husband and wife as one, the fee for appearing is but	0	3	4
But if more than three, and not exceeding six defendants appear together, the appearance fee is	0	6	8
If more than six the appearance fee is	0	10	0

And so in proportion to the number of defendants, reckoning 3 *s.* 4 *d.* for every three defendants, man and wife still computed but as one.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For copies of all bills and answers, depositions, and other proceedings, for each sheet, containing fifteen lines, and six words in every line	0	0	11

*Viz.*

			<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>Viz.</i> Stamps	-	-	0	0	3
To the fix clerk	-	-	0	0	4
To the sworn clerk	-	-	0	0	4
			<hr/>		
			0	0	11
				<i>l.</i>	<i>s.</i> <i>d.</i>
For a rule to produce witnesses, or to pass publication and notice thereof, including the stamp duty			0	4	4
For setting down a cause for hearing before the Lord Chancellor or Master of the Rolls, by their fix clerk, according to the right they claim for so doing, for each cause to set down	-	-	1	5	8
For drawing and inrolling decrees and dismissions (if not exceeding one skin)	-	-	1	13	4
				<i>l.</i>	<i>s.</i> <i>d.</i>
Out of which is paid to the fix clerk			0	17	0

But if the decree or dismissal be longer than one skin, then for drawing every sheet 8 *d.* and 8 *d.* *per* sheet inrolling, each sheet to contain sixteen or seventeen lines; and in such case the suitor pays the 17 *s.* to the fix clerk.

			<i>l.</i>	<i>s.</i>	<i>d.</i>
For a writ of execution of a decree, for every skin thereof, including the parchment but not the stamps			1	6	8
Each skin to contain not less than sixteen copy-sheets for attending the court on the day of hearing of every cause wherein they are concerned	-	-	0	6	8
And if the cause is more than one day in hearing, then for each day the cause is actually in hearing			0	6	8
For every other attendance in court when required by the proper client, or his solicitor, but not otherwise	-	-	0	6	8
For every attendance on a Master on taxing of costs			0	6	8
For every attendance on a Master on other occasions (except taxing costs) by the direction, or at the request of the proper client or his solicitor, if together with the solicitor in the cause	-	-	0	3	4
If without the solicitor, then	-	-	0	6	8

But note; this fee of 3 *s.* 4 *d.* for any such attendance on a Master, if together with the solicitor in the cause, is only to be allowed by the Masters in taxing costs between the client and his solicitor or clerk in court; but on taxing costs between party and party, no fee is to be allowed to the sworn clerk for any such attendance, together with the solicitor in the cause.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For entering an appearance for the parties with the Register according to any order of court	0	3	4
For signing their consent as clerk in court, to any petition, agreement or election	0	3	4
For every certificate to be signed by the fix clerk	0	2	6
For examining all copies of bills, answers, depositions of witnesses, interrogatories, and other proceedings, with the records in order for evidence, if eighty sheets or under	0	6	8
But if more than eighty sheets, then after the rate of one penny <i>per</i> sheet	0	0	1
For the exemplification of every record (besides the stamps) and vellum, (if writ on vellum) the Master's fee for examining, and sworn clerk's fee for attending to examine, and hanaper fee for every skin thereof 1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	1	6	8
	<i>l.</i>	<i>s.</i>	<i>d.</i>
Out of which is paid to the fix clerk	0	14	0
To the sworn clerk	0	12	8
	1	6	8

Each skin to contain at least sixteen copy sheets.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For drawing and ingrossing the docquet and master's certificate (besides the stamp, which is one shilling)	0	3	4
For attending the masters to examine exemplification that exceed not three skins	0	6	8
If more, then in proportion to 6 <i>s.</i> 8 <i>d.</i> for every three skins.			
	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every writ of assistance to put the defendants into possession, pursuant to a decree	0	17	4
	<i>l.</i>	<i>s.</i>	<i>d.</i>
Out of which is paid for stamps	0	2	6
Seal	0	0	6
Sworn clerk's fee	0	14	4
	0	17	4

For the copies of all deeds, writings, papers, letters and accounts left with any clerk in court, pursuant to an order of court, or referred to in any of the pleadings, for each sheet 4 *d.*

*l.* *s.* *d.*

0 0 4

For



# FEES OF OFFICERS, &c.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every attendance to produce such deeds, papers, letters or accounts for the adverse party to inspect if no copy be taken	0	6	8

But if any copy of such deeds, papers, &c. be taken, then nothing is to be taken for inspection or attendance thereon.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every <i>certiorari</i> , <i>procedendo</i> and <i>superfedeas</i>	0	9	3

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>Viz.</i> duty	0	2	6
Seal	0	0	6
Sworn clerk's fee	0	6	8
	0	9	8

That the sworn clerks and writing clerks do observe and perform the several rules and regulations following, *viz.*

That all copies of schedules to answers or other proceedings which contain accounts and inventories be written in three columns; the first or outer column, and the third or last column whereof are to contain respectively the dates and sums in figures, as they are respectively written in the ingrossment of such schedules, and the middle column to contain four words in a line of the facts or matters charged in such accounts or inventories.

Where any person intitled to privilege of parliament, pursuant to the act of parliament of the twelfth and thirteenth of King William the Third, has been served with an office-copy of the bill, such person shall not be obliged to take out or pay for any other copy of such bill upon his appearance thereto.

## OFFICE OF THE CLERKS OF THE INROLMENTS.

THAT the clerks of the inrollments, their deputies and clerks, do not demand or take any greater fees or rewards for the business done, or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the inrolling of every deed, writing or conveyance for every roll or prefs, each prefs containing ninety lines, and each line not less than fourteen words, one with another	0	10	0
	1	1	3

*Viz.*

## FEES OF OFFICERS, &amp;c.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>Viz.</i> to the clerks of the inrolments	0	5	0
To the deputy clerks	0	5	0
	<hr/>		
	1	0	0

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every deed inrolled in this office there is like- wise paid - - -	0	5	4

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>Viz.</i> to the Master of the Rolls	0	2	0
To the deputy clerk for indorsing and cer- tifying - - -	0	3	4
	<hr/>		
	0	5	4

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For inrolling every recognizance without condition	0	4	0
For inrolling every recognizance with condition, if short - - -	0	6	0

But if the condition be long, then according to the length, in  
proportion to 10 *s.* for a whole prefs.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Out of which is paid to the Master of the Rolls for every re- cognizance - - -	0	2	0

And the residue belongs to the clerks of the inrollments, or  
their deputies.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For vacating every recognizance -	0	13	4
<i>Viz.</i> To the Master of the Rolls	0	6	8
To the clerks of the inrollments	0	3	4
To the deputies - - -	0	3	4
	<hr/>		
	0	13	4

## TO THE DEPUTY CLERKS.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For copying any deed, writing or recognizance inrolled 8 <i>d.</i> per sheet, each sheet containing ninety words - - -	0	0	8
	<hr/>		
	0	0	8

For

# FEES OF OFFICERS, &c.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For certifying the copy of a deed to be a true copy	0	2	0
For every attendance on the court with a roll	0	6	8
For every search for a deed inrolled, not exceeding one year	0	1	0
For every search for a longer time than one year for each year after the first	0	0	3

But when the bill is found, the party who pays for the search, is to have liberty of reading it without further fee.

## THE OFFICE OF THE CLERK OF THE HANAPER.

That the clerk of the hanaper, his deputy and clerks, do not demand or take any greater fees or rewards for the particular matters and things herein after mentioned, done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For a commission of rebellion	0	5	4

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	2	0
Clerk of the hanaper	0	2	4
	0	5	4

	<i>l.</i>	<i>s.</i>	<i>d.</i>
A brief or duplicate thereof	0	6	6

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	3	0
Scales	0	0	6
Chaff-wax	0	1	0
Examiner	0	0	8
Clerk of the hanaper	0	2	4
	0	7	6

	<i>l.</i>	<i>s.</i>	<i>d.</i>
A <i>dedimus</i> to the clerk of the hanaper	0	4	6
A commission of appeal from the Admiralty	0	8	2

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The clerk	0	2	0
Six clerk	0	1	8
Clerk of the hanaper	0	3	6
	<hr/>		
	0	7	2

A commission of policies of insurance

0 7 2

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	2	0
Six clerk	0	1	8
Clerk of the hanaper	0	3	6
	<hr/>		
	0	7	2

A commission of bankruptcy

0 13 6

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	2	0
Six clerk	0	3	4
Sealer	0	1	0
Chaff-wax	0	1	0
Examiner	4	0	8
Clerk of the hanaper	0	4	6
	<hr/>		
	0	13	6

A commission of bankruptcy renewed; clerk of the hanaper

0 7 3

A *superfedeas* of a commission of bankruptcy, clerk of the hanaper

0 1 0

A commission of inquiry of lunacy or idiocy

0 9 2

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	2	0
Six clerk	0	1	8
Clerk of the hanaper	0	5	6
	<hr/>		
	0	9	2

A custody or a revocation of a lunatic or idiot

0 14 0

	<i>l.</i>	<i>s.</i>	<i>d.</i>
The King	0	2	0
Six clerk	3	3	4
Clerk of the hanaper	0	8	8
	<hr/>		
	0	14	0

An



# FEES OF OFFICERS, &c.

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*l. s. d.*

An exemplification	-	-	<i>l. s. d.</i>	1	8	10
			<i>l. s. d.</i>			
The King	-	-	0	16	4	
Chancellor	-	-	0	2	0	
Master of the Rolls	-	-	0	6	8	
Sealer	-	-	0	0	8	
Chaff-wax	-	-	0	0	8	
Clerk of the hanaper	-	-	0	2	6	
				1	8	10

Every <i>inspeximus</i> from the six clerks office to the clerk of the hanaper	-	-	0	0	3	
From every other office, the clerk of the hanaper			0	0	4	
A commission of appeal or adjuncts	-	-	1	7	2	

			<i>l. s. d.</i>			
To the King	-	-	0	16	4	
Chancellor	-	-	0	2	0	
Master of the Rolls	-	-	0	2	0	
Six clerk	-	-	0	3	4	
Sealer	-	-	0	0	4	
Examiner	-	-	0	0	8	
Clerk of the hanaper	-	-	0	2	6	
				1	7	2

A pardon of course for one name	-					1	8	0
			<i>l. s. d.</i>					
<i>Viz.</i> To the King	-	-	0	16	4			
Chancellor	-	-	0	2	0			
Master of the Rolls	-	-	0	2	0			
Six clerk	-	-	0	3	4			
Clerk of the hanaper	-	-	0	4	4			
				1	8	0		

## THE KEEPER OF THE RECORDS IN THE TOWER.

That the said officer or his deputy do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, *viz.*

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every particular search, or for several searches relating to the same matter, if made within four terms inclusive	0	10	0
For every sheet copied	0	1	0
For the master or deputy's hand to each copy	0	2	0
For examining any old copy under the master or his deputy's hand	0	2	6
For every record carried out of the office to either house of parliament, or to any of the courts of judicature	1	0	0

## THE PETTY-BAG OFFICE.

THAT the clerks of the petty-bag do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every attachment of privilege	0	1	0
For drawing and ingrossing all declarations, pleas, and replications, according to the length for each sheet	0	1	0
Entering the rule to answer with the six clerk, and on the roll in the petty-bag.	0	2	0
For entering every peremptory rule to answer, rule to reply, rejoin, or join in demurrer	0	1	0
For entering every common imparlance with the six clerk and in the petty-bag	0	1	0
For every special imparlance entered there	0	2	0
For drawing and ingrossing every confession of a judgment	0	2	0
For signing, entering, and making up, the record of every judgment, if short	0	10	0
If long, then in proportion to 1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> for every skin	1	6	8
For ingrossing the record of an issue or demurrer, proportionably for each skin, 1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	1	6	8
For every continuance	1	0	0
For every <i>venire facias</i> to the Master of the Rolls	0	6	8
For the writ and seal	0	10	6
For every <i>venire, scire facias</i> , and seal	0	5	6
For all special commissions of inquiry, <i>scire facias</i> to revoke letters patent, <i>scire facias ad computandum</i> ,			

*audita*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>audita querela</i> , re-extents and all other judicial writs	0	12	6
And (otherwise as they may arise in length) for each skin	1	6	8
For every <i>liberate</i> upon a statute-staple, to the Master of the Rolls	0	13	4
For drawing and ingrossing the writ, entering and filing the extent and statute, and for the seal	1	0	3
And if very long, after the rate for every skin	0	6	8
For drawing all special writs, commissions, records of issues or demurrers and pleadings, as traverses, <i>monstrans le droit</i> , and such like, for every sheet	0	1	0
For entering the <i>vacate</i> of every judgment, or statute staple and search	0	11	4
For every writ of <i>dedimus potestatem</i> to take the acknowledgment of satisfaction of such judgment or statute in the country	1	6	8
For ingrossing acknowledgment, and filing every bail	0	6	8
For taxing every bill of costs	0	2	0
For every <i>certiorari</i> to remove acts of parliament	0	10	6
For every <i>certiorari</i> to remove records out of any other court	0	7	2
For every <i>mittimus</i> to send such records into any other court	0	7	2
For the transcript of such record, as it may arise in length, each skin	1	6	8
For filing all judicial writs, special commissions, writs <i>de virida et coronator eligendo</i> , commissions to swear justices of the peace and sheriffs, decrees upon the statute of charitable uses, and all other records and writs, and for the entry thereof	0	2	6
For the search of every record (without paying any further fee for taking the record down, or a sight of the same)	0	1	0
For the copies of all records, for each sheet	0	0	8
The officer's hand to the examination of every record	0	2	0
For drawing and signing every certificate under the officer's hand	0	2	6
For every writ of execution of an order or decree upon the statute of charitable uses	0	10	6
And as it arises in length, proportionably for each skin	1	6	8
For every attachment of contempt and proclamation	0	2	10
For every commission of rebellion	0	18	8
For every injunction	1	2	6
For every commission to examine witnesses and for the oaths annexed to such commission, pursuant to an			

order

	<i>l.</i>	<i>s.</i>	<i>d.</i>
order of court made the ninth of <i>February</i> in the eighth year of King <i>George</i> the First -	0	12	10
For every rule for publication, and entering it on the roll -	0	1	0
For every confirmation of a decree upon the statute of charitable uses -	1	6	8
If long, then for the drawing each sheet -	0	0	8
For the inrolling thereof, each sheet -	0	0	8
For every exoneration of a decree upon the statute of charitable uses -	0	6	8
And if long, then for drawing and inrolling as for a confirmation			
For a fee in every cause for every term wherein any business is done in this office -	0	3	4
For the transcript of every record sent into the King's Bench for trial, for each skin -	1	6	8
For the exemplification of any record, for each skin -	1	6	8
For the docket -	0	1	0
For filing the qualification of any member of parliament, pursuant to the statute of the ninth of Queen <i>Anne</i> , the fee is settled by the statute at -	0	2	0
For attending the court of Chancery at <i>Westminster</i> with the record of a demurrer, and reading it in order to pay a <i>concilium</i> thereon -	0	6	8
For the re-examination of an old copy of any record, for each sheet -	0	0	1
For every <i>dedimus</i> to swear a master extraordinary in Chancery, when made out from this office	0	13	4

Every skin for which a fee of 1 *l.* 6 *s.* 8 *d.* is allowed in this office ought to contain twenty sheets, each sheet consisting of seventy-two words; and all the fees before mentioned are exclusive of the stamp duties.

For attending with any record out of the office, the clerk attending is to be paid a reasonable fee, according to the time of such attendance.

FEES paid at the PETTY BAG OFFICE for BISHOPS PATENTS made out there.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every <i>cong� d'�lire</i> for the election of a new bishop, upon the vacancy of any bishopric, as follows -	11	4	6

To



	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Master of the Rolls -	1	0	0
To the Lord Chancellor's gentleman	1	6	8
To the clerks of the petty-bag for drawing, ingrossing, inrolling, and examining, the patent, and for the docquet -	8	17	0
	<hr/>		
	11	4	6

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the royal assent to such election -		12	4 6
	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Master of the Rolls	2	0	0
To the Lord Chancellor's gentleman	1	6	8
To the clerk of the petty-bag for drawing, ingrossing, inrolling, and examining the patent, and for the docquet -	8	17	10
	<hr/>		
	12	4	6

For the patent of assistance and restitution of temporalities -		28	4 6
To the Lord Chamberlain -	5	0	0
To the Master of the Rolls -	7	10	0
To the Lord Chancellor's gentleman	1	6	8
To the chaff-wax -	0	3	4
To the clerks of the petty-bag, for drawing, ingrossing, inrolling, and examining, the patent of assistance, and for the docquet, and writs of restitution -	14	4	6
	<hr/>		
	28	4	6

For every comptroller's, searcher's, under-searcher's, and King's waiter's, patents -		10	0 0
	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Master of the Rolls -	0	6	8
To the Lord Chancellor's gentleman	1	6	8
To the clerks of the petty-bag for drawing, ingrossing, inrolling and examining, the patent, and for the docquet -	8	6	8
	<hr/>		
	10	0	0

*An Account of such Business as particularly belongs to the Senior Clerk.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the administering of the oath of admission to the keeper of the records of the Tower, and clerk of the bankrupts, and inrolling the admission	5	5	0
For inrolling the surrender of every examiner and fix clerk, admission of and swearing in the new one, and making a <i>conflat</i> thereof	3	3	0
For swearing the deputy-clerks of the inrolments	3	3	0
But for the other officers (except solicitors) whose admittances are inrolled in this office	2	2	0
For making out of every certificate of a peer of <i>Scotland</i> taking the oaths in <i>England</i> to vote by proxy	0	10	0
As for the administering of the oaths in court, the fees are settled by an act of parliament, at	0	2	0
For the writ of summons on the call of a new parliament	0	7	2
For the commission for the electing sixteen peers of <i>Scotland</i>	5	0	0
For ruling and other petty charges besides vellum	0	14	6
For settling the precedency of the great officers of state, and the order of the nobility, ingrossing of the pacon, which is the recital of the several writs to each particular Lord, Spiritual and Temporal, that has right of sitting, according to their station, in respect of their great offices or creation; together with the several writs of the sheriffs of counties, cities, and towns, having sheriffs, and to the several <i>Scotch</i> districts; and to the Master of the Rolls, the Judges, Serjeants, Attorney and Solicitor General, and Counsel attending upon that occasion	10	0	0

The three clerks of this office are intitled to an ancient fee or allowance out of the hanaper of two rolls of parchment in every term.

#### THE SUBPOENA OFFICE.

THAT the patentees of the said office, or their deputy or deputies, do not demand or take greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every common <i>subpœna</i> , over and above the stamp-duties, and 6 <i>d.</i> paid to the patentees of the Crown, for the sealing thereof	0	2	0
For every common <i>subpœna</i> renewed	0	1	6
For every special <i>subpœna</i> (to wit) <i>spa. ad ostendend. causam, scire facias, et ducens tecum</i> , over and above duty and seal	0	6	8
For every special <i>subpœna</i> renewed	0	3	4
For every loose label	0	0	6

Out of which fees above mentioned, the present deputy claims, and takes to his own use,

Out of every *subpœna scire facias et ad ostendend. causam*

0 5 0

Out of every *subpœna scire facias et ad ostendend. causam* renewed

0 2 6

Out of every *subpœna ducens tecum*

0 0 4

Out of every common *subpœna* renewed

0 0 6

For every loose label

0 0 6

#### THE SIX-PENNY WRIT OFFICE.

IT is hereby declared, that the patentee, or his deputy, ought not to demand or take any fee for sealing of writs for privileged persons, or for suitors in *forma pauperis*, or for renewed writs.

#### THE OFFICE OF CHAFF-WAX.

THAT the officer called the chaff-wax or his deputy do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

His wages or fee of two-pence half penny a-day, payable by the clerk of the hanaper.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For his salary payable out of the hanaper, the yearly sum of	360	0	0
From the clerk of the hanaper every year, for fuel, oil, and other necessaries, for tempering the wax for the Great Seal	4	5	4

And

And one shilling and four-pence a day board wages.

From the clerk of the hanaper to one of his deputies fifteen pounds a year for travelling charges upon the King's business.

From the clerk of the hanaper the casual fees following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every brief	0	1	0
For every bankrupt	0	1	0
For every exemption	0	0	8
For every presentation	0	0	4
For every office for life	0	0	4
For every special pardon	0	0	4
For every perpetuity	0	1	0

And the clerk of the presentations,

For every presentation	0	1	0
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From the clerk of the crown in Chancery the casual fees following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the creation of a Prince of <i>Wales</i>	3	7	6
For the creation of every Duke, Marquis, Earl, Viscount, and Baron, each	1	2	6
For the creation of a Baronet	0	10	0

From the lessee of the six-penny writ duty 50*l.* a year by four equal payments at the end of every term, which is granted to the chaff-wax, for the time being, by King *Charles* the First, by his letters patent, bearing date the eighth day of *October* in the third year of his reign.

From the said lessee to the six-penny writ duty to the two deputies in this office, at the end of every term each	2	0	0
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From the Lord Chancellor's purse-bearers the following fees, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every private seal	0	10	0
For every small writ at a private seal	0	0	3

That the sealer or his deputy do not take or demand any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

From



# FEES OF OFFICERS, &c.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
From the patentee of the fix-penny writ duty, a yearly allowance of - - -	83	6	8
Payable at the end of every term, by equal payments.			
From the said patentee to the fix-penny writ duty, to the deputy in this office, 40 <i>s.</i> at the end of every term; <i>per term</i> - - -	2	0	0

From the hanaper office four pence half-penny by the day salary, and one shilling and four pence by the day board wages, quarterly.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
And for a table, bags, sponges, scarlet cloth, and other necessities, by him provided for the seal .	10	15	0
And for a winter livery - - -	1	0	0
And also for riding charges and expences in following the Great Seal into the country (which the present sealer allows his deputy) - - -	15	0	0

Fees which the clerk of the hanaper also receives and accounts for to this officer.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For a brief - - -	0	0	6
For a commission of bankrupt - - -	0	1	0
An exemption - - -	0	0	8
Any church preferment - - -	0	0	6
Office for life or years - - -	0	0	4
Commissions of appeal - - -	0	0	4
Special licence for fourteen years - - -	0	0	4
Special pardon - - -	0	0	8
A perpetuity - - -	0	0	8

Fees received by the clerk of the crown in Chancery, which he accounts for to the sealer :

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Prince of <i>Wales's</i> patent - - -	3	7	6
For every Baron, Viscount, Earl, Marquis, and Duke, each title - - -	1	2	6
For every Baronet - - -	0	10	0
For every patent when the patentee is sworn in before the Lord Chancellor - - -	0	5	0
The sealer receives from the purse bearer, for every private seal - - -	0	7	6
For every small writ sealed at a private seal - - -	0	0	3
For every presentation from the clerk of the presentations - - -	0	1	0

## THE USHER OF THE COURT.

THAT the said usher or his deputy do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Four pence half-penny <i>per diem</i> to be issuing and paid out of the hanaper - -	0	0	4½
Twenty shillings for a livery once by the year	1	0	0
For laying out of all records of <i>Henry</i> the Seventh's time, and before - -	0	0	6
For laying out of every parliament-roll, confirmation-roll, judgment-roll, fine-roll, and every bundle <i>virtute officii</i> - -	0	0	6
For all other records and cancellations, for each one	0	0	4
For carrying out every record or evidence, by the command of the Lord Chancellor or Master of the Rolls - -	0	3	4
For every exemplification, sheriff's patent and escheator's patent - -	0	0	4
For every decree and dismissal signed - -	0	0	4
For every perpetuity out of the hanaper - -	0	0	4
For every writ of bastardy, for every name - -	0	1	0
At the making of every master of the court, his hood	0	3	4
At a call of serjeants-at-law, a livery, and for each oath - -	0	3	4
For receiving every parcel of evidence into court, entering them into a ledger-book, and for making a certificate thereof - -	0	2	0
For delivering out every parcel of evidence	0	2	0
For certifying the not bringing in of money or evidence - -	0	2	0
For every cause heard at <i>Westminster</i> , if the bill is dismissed, the defendant pays - -	0	2	0
If a decree for the plaintiff, the plaintiff pays	0	2	0
If an issue at law, or an account is directed, each side pays - -	0	2	0
For every guardian admitted in court at <i>Westminster</i>	0	2	0
For every cause heard in court, at the Rolls in term time, if the bill is dismissed, the defendant pays	0	2	0
If a decree for the plaintiff, the plaintiff pays	0	2	0
If an issue at law, or an account is directed, each side pays - -	0	2	0
			For

# FEES OF OFFICERS, &c.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every guardian admitted in court, at the Rolls in term	0	1	0
And for all copies made of such evidences as remain in the usher's custody, for every sheet which shall be ordered and unwastefully written, each of which sheets ought to contain ninety words	0	0	8

## THE OFFICE OF PURSE-BEARER.

THAT the said purse-bearer or his deputy do not demand or take any greater fees or rewards, for the particular matters and things hereinafter mentioned, done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
<i>Recepi</i> fees for patents of honour, each title	5	5	0
For every remainder	2	12	6
<i>Recepi</i> fees for grants of charters	5	5	0
<i>Recepi</i> fee for Archbishop's instruments, each	2	12	6
<i>Recepi</i> fee for Baronet's patents	2	12	6
For every remainder	1	6	6
<i>Recepi</i> fee for Governor's commissions	2	12	6
<i>Recepi</i> fee for Bishop's instruments, Deans, Prebends, and other church preferments, and of all offices and grants whatsoever	1	6	6

## DOCQUET FEES.

Special commissions made out of the petty-bag, each	1	1	1
Exemplifications and pardons of course, each	0	10	0
Sheriff's patents	0	4	0
Deans, Prebends, Archdeacons, custodies of lunatics, each	0	3	0
Presentations, commissions of bankruptcy, <i>superfedeas</i> of commissions of bankruptcy, briefs, writs of inquiry of lunatics	2	0	0
For every renewed commission of bankrupt	0	1	0
Commissions of appeal and rebellion, each	0	1	0
Out of every 40 <i>s.</i> received for every private seal	0	17	6
Out of the 3 <i>s.</i> received for every writ sealed, when the seal is opened on any other occasion	0	2	0
Entering a caveat	0	5	0
For a petition answered	0	12	6

K k 2

For

For filing and copying affidavits, and the manner of writing such copies, the same as is after-mentioned under the head of secretary of the commission of bankrupts.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For application for the sheriff's roll, in order for the alteration of a sheriff's name, when a person is pricked for sheriff, and is afterwards excused, and another named in his room	-	1	1 0

### THE OFFICE OF THE PRINCIPAL SECRETARY TO THE LORD CHANCELLOR.

THAT the said principal secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every petition for setting down exceptions, pleas, or demurrers	-	0	10 0
For every petition for re-arguing exceptions, pleas, or demurrers	-	0	12 6
For every petition for setting down a cause for hearing	1	0	0
For every petition for re-hearing a cause	1	5	0

Where the petition is for several pleas or demurrers, or in cross causes, then the fees in all the matters aforesaid are double, and are treble if three.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For a warrant to the serjeant-at-arms, the messenger or the warden of the Fleet	-	0	15 0
For every petition for a <i>ne exeat regnum</i>	-	0	12 6
For every petition for a letter to any peer of this realm, and for the letter	1	5	0
For every reference upon a petition to the Lord Chief Justices, or other judges, concerning by-laws	-	0	12 6
For a petition to have by-laws signed	-	0	12 6
For a petition for an <i>homine replegiando</i> , or touching the custody of an infant, or other matter where no cause is depending	-	0	12 6
For backing every <i>habeas corpus</i>	-	0	2 0
And every writ of <i>ne exeat regnum</i>	-	0	2 6
For every petition for a <i>supplicavit</i>	-	0	12 6
Upon application for the roll, in order to the alteration of a sheriff's name, when a person is pricked for sheriff, and is afterwards excused, and another named in his room	-	1	1 0
For			



# FEES OF OFFICERS, &c.

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	<i>l.</i>	<i>s.</i>	<i>d.</i>
For taxing bills of costs upon writs of error in the Exchequer-chamber -	1	0	0
For every petition not herein particularised, relating to the proceedings in a cause -	0	10	0
For every summons on an order of reference from his Majesty -	0	12	6
For every report on every reference from his Majesty	1	5	0
For a <i>caveat</i> -	0	5	0
For copies of affidavits, according to their length, the like fees as in the affidavit office.			

## THE OFFICE OF RECEIVER OF THE FINES.

THAT the officer for receiving the fines do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For an order made on hearing the parties	1	0	0
For an order upon a petition to issue a writ for discharging or electing a coroner or verdurer, and for an undertaking of regular notice, and filing the same on an affidavit -	1	0	0
For an order upon any other petition -	0	12	6
For a <i>caveat</i> -	0	5	0

For filing and copying affidavits, the same fees and rules already laid down to be observed by the Lord Chancellor's secretary of the commissions of bankrupts, are to be observed by this officer.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every special <i>dedimus</i> in one county -	0	1	0
If in more counties, for each county -	0	1	0
For every renewed <i>dedimus</i> -	0	2	0
For every other renewed writ -	0	1	0
For every curfitor sworn in upon death -	20	0	0
For every curfitor sworn in upon surrender	10	0	0

## THE OFFICE OF SECRETARY OF DECREES AND INJUNCTIONS.

THAT the said secretary do not demand any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

K k 3

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For examining a decree or dismissal to be signed by the Lord Chancellor to be inrolled in each cause or dismissal - - -	0	7	6
For entering a caveat against such signing, and giving notice thereof to the parties concerned in each cause - - -	0	5	0
For Lord Chancellor's order on a petition against signing and inrolling a decree - - -	0	12	6
For Lord Chancellor's order on a petition for inrolling a decree after the time limited for inrolling is lapsed, and entering the same in each cause - - -	0	10	0
For examining the order for an injunction, with the copy of the writ, and Lord Chancellor's signing the said copy and writ before it passes the seal - - -	0	4	4

#### THE OFFICE OF SECRETARY OF THE LUNATICS.

THAT the said secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every other order made upon hearing - - -	1	7	6
For a petition for grant of a custody - - -	1	7	6
For a petition for a writ <i>de lunatico inquirendo</i> or for any other matter, except as above - - -	0	5	0
Entering a caveat - - -	0	5	0

For filing and copying affidavits, the same fees and rules already laid down to be observed by the secretary of commissions of bankrupts, are to be observed by this officer.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For a copy of orders made in court, or of petitions, the first side - - -	0	1	6
For every other side - - -	0	1	0
For setting down every petition for hearing - - -	0	1	0

#### THE OFFICE OF THE CLERK OF THE CUSTODIES OF IDEOTS AND LUNATICS.

THAT the said officer or his deputy do not take any fee or reward for attending the seal, hanaper, or clerk of the docquets, with any grant of the person or estate of ideots or lunatics, or any revocation thereof, for not attending the seal, hanaper, or clerk of the docquets, with any commission of ideocy or lunacy.

## THE OFFICE OF SERJEANT AT ARMS.

THAT the said officer or his deputy do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Travelling each mile	0	1	0
Searching each day	0	13	4
Caption-fee of a Knight	5	0	0
Caption-fee of a gentleman or common person	3	6	8
Custody-fee each day	0	13	4
The return of process against a Knight	5	0	0
The return of process against a gentleman or common person	3	6	8

He is also paid the fee of 3*s.* a-day out of the hanaper.

THE OFFICE OF MESSENGER OR PURSUIVANT  
ATTENDING THIS COURT.

THAT the messenger or pursuivant, or his deputy, do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For summoning a new parliament, as to that part of <i>Great Britain</i> , called <i>England</i>	176	0	0
And for summoning a new parliament as to <i>Scotland</i>	100	0	0
Travelling each mile for all business, except summoning a new parliament	0	0	6
Searching each day	0	6	8
Caption-fee of a Knight	2	10	0
Caption-fee of a gentleman or common person	1	13	4
Custody for each day	0	6	8
Return of a warrant	1	13	4
From the clerk of the hanaper for every charter that passes the great seal	0	5	0
From the clerk of the hanaper <i>per diem</i>	0	3	0
From the assignee of the patentee of the six-penny writ duty <i>per term</i>	0	10	0

## THE OFFICE OF SECRETARY OF THE APPEALS.

THAT the secretary of the appeals do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For entering a caveat against passing a commission	0	6	8
For an order made on hearing parties -	1	0	0
For an order on any petition -	1	0	0
Office-copy thereof -	0	10	0
For filing an affidavit, first side -	0	2	0
For every other side -	0	0	8
For copying an affidavit, first side -	0	2	6
Every other side -	0	0	8
For a copy of a report on reference, touching a commission of review -	2	15	0
For an order on any petition relating thereto	1	0	0
Office-copy thereof -	1	0	0

## THE OFFICE OF CLERK OF THE APPEALS.

THAT the clerk of the appeals do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For ingrossing a commission of appeal -	2	10	0

Out of which said sum is paid by this officer to the hanaper 1 *l.* 7 *s.* 2 *d.* and to the purse-bearer 1 *s.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For ingrossing a commission of adjuncs -	3	0	0

Out of which is paid by this officer to the hanaper 1 *l.* 7 *s.* 2 *d.* and to the purse-bearer 1 *s.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For ingrossing a commission of review -	5	0	0

Out of which is paid by this officer to the hanaper 1 *l.* 7 *s.* 2 *d.* and to the purse-bearer 1 *s.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For ingrossing a commission of appeal from the court of Admiralty -	1	10	0

Out



Out of which is paid by this officer to the hanaper 7 s. 2 d.  
and to the purse-bearer 1 s.

l. s. d.

For ingrossing a *pauper* commission of appeal, out of  
which nothing is paid - - - 0 10 0

If any of the said commissions (except a *pauper* com-  
mission) do very much exceed the usual length, more 0 7 6

### THE GENTLEMEN OF THE CHAMBERS ATTENDING THE GREAT SEAL.

THAT the said gentlemen of the chambers do not demand  
or take any greater fees or rewards, for the business done or to  
be done in this office, than the fees or rewards following, *viz.*

l. s. d.

For every Peer's patent by promotion or creation, each title - - - - -	6	0	0
Curfitor's fees (that is) swearing into offices	5	0	0
Baronet's patent - - - - -	3	0	0
Swearing every curfitor - - - - -	5	5	0
Fiat for a Master in Chancery extraordinary -	5	10	0
By-laws passed by any body-corporate -	5	5	0
Small writs every last seal day paid by the lessee of the six-penny writ duty - - - - -	3	15	0
Every bishop's patent by the clerk of the petty-bag office - - - - -	1	6	8
If an archbishop - - - - -	2	13	4
Every custom-house patent by the clerk of the petty- bag - - - - -	1	6	8
Clerk of the leases for each skin pays -	1	6	8
Cause by consent heard - - - - -	1	0	0
Private attendance - - - - -	1	0	0
Petition heard - - - - -	0	10	0
Guardian admitted in the chamber, and on certain days in court, to wit, seal days and petition days	0	10	0
Out of the forty shillings on every private seal	0	5	0
Dispensation or commendam - - - - -	0	5	0
Papers left for Lord Chancellor's perusal	0	5	0

**THE OFFICE OF MASTER IN CHANCERY EXTRAORDINARY IN THE COUNTRY.**

**THAT** a master extraordinary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l. s. d.</i>
From every person who shall swear to an affidavit before him	0 2 0
For the acknowledgment of every deed acknowledged before him	0 5 0
From every recognizor that shall enter into a recognizance before him	0 2 6

If any of these matters are transacted at the place of the officer's residence, or in any market town frequented by him, he is to take no greater fees or rewards than are above-mentioned; but if he is obliged to travel for that purpose at the desire of any party, then he may receive a reasonable reward from such party according to the length of his journey.

**THE USHER OF THE HALL AT THE LORD CHANCELLOR's.**

**THAT** the said usher do not demand or take any greater fees or rewards, for the business done or to be done, than the fees or rewards following, viz.

	<i>l. s. d.</i>
Upon hearing a cause wherein no account or issue is directed	0 10 0
Upon hearing a cause wherein an account or issue is directed	1 0 0
Upon hearing cross causes wherein no account or issue is directed	1 0 0
Upon hearing cross causes wherein an account or issue is directed in one of them.	1 10 0
When an account or issue is directed in both	2 0 0
Upon re-hearing a cause	0 10 0
Upon re-hearing cross causes	1 0 0
Upon arguing exceptions	0 10 0
But if exceptions are taken on both sides	1 0 0
	Upon

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Upon arguing pleas and demurrers - -	0	6	0
If a plea stands for an answer with liberty to except, each side pays - -	0	6	0
Upon admission of a guardian in court -	0	10	0
Upon swearing a witness <i>viva voce</i> in court to prove any matter - -	0	1	6
Upon a master's taking an affidavit in court	0	0	6

## THE CRYER OF THE COURT.

THAT the said cryer do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every cause heard at <i>Westminster</i> (only) if the bill be dismissed - -	0	2	6
If a decree for the plaintiff - -	0	2	6
For an issue at law, or if an account be directed, each side pays 10 <i>s.</i> out of which he receives	0	5	0
For every guardian admitted in court -	0	1	0
For calling and amercing a sheriff for not returning the process of the court - -	0	0	4

On a general call of Serjeants-at-law, a livery gown.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
On the coming in of a new Master in Chancery	0	5	0

THE DEPUTY OF THE WARDEN OF THE FLEET,  
OR THE LORD CHANCELLOR'S TIPSTAFF AT-  
TENDING THE COURT.

THAT the said deputy do not demand or take any greater fees or rewards, for business done or to be done, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
On every cause that is heard before the Lord Chan- cellor in term time only, he is entitled to 1 <i>s.</i> which is paid to him by the door-keeper out of the 10 <i>s.</i> which is the usual fee paid to the door-keeper	0	1	0

For

For every day on which he travels to execute any warrant in the country, he is allowed for his expences, to be paid him by the party at whose instance the commitment is

l. s. d.

0 6 8

And for every mile that he travels upon that occasion, his fee is

0 0 6

When a prisoner is removed by *habeas corpus* from the Fleet prison to appear in court, the said deputy is the proper officer to take care of the prisoner, and to conduct him from the Fleet prison to the court of chancery and back again; the fee is

0 6 8

### THE OFFICE OF DOOR-KEEPER OF THIS COURT.

THAT the door-keeper of this court do not take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

In every cause heard at *Westminster*, if the bill is dismissed, the defendant pays this officer a fee of 10s. which he distributes as follows:

	l.	s.	d.	l.	s.	d.
To the usher of the Rolls	0	2	0			
To the crier of the court	0	2	6			
To the Lord Chancellor's tip-staff	0	1	0			
To the Master of the Roll's tipstaff	0	0	6			
To the court-keeper	0	0	6			
To the Register's bag-bearer	0	1	0			
His own fee	0	2	6			
	<hr/>			0	10	0

If a decree for the plaintiff, he pays the like fee of 10s. distributed as above.

If an issue at law or an account is directed, the plaintiff and defendant each pay 10s. distributed in like proportion.

For every guardian admitted in court at *Westminster*, he receives a fee of 10s. which he distributes as follows:

	l.	s.	d.	l.	s.	d.
To the two fix clerks then attending in court	0	3	0			
To the usher of the Rolls	0	1	0			
To the crier of the court	0	1	0			

T.



	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Lord Chancellor's tipstaff -	0	1	0			
To the Master of the Rolls' tipstaff -	0	0	6			
To the court-keeper -	0	0	6			
To the Register's bag bearer -	0	1	0			
His own fee -	0	2	0			
	<hr/>			0	10	0

For every cause heard in court at the Rolls in term time a fee of 7 *s.* 6 *d.* to be divided as follows :

	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the Usher of the Rolls -	0	2	0			
To the Master of the Rolls -	0	1	0			
To the Master of the Rolls' tipstaff -	0	1	0			
To the Usher of the hall at the Rolls	0	1	0			
His own fee -	0	2	6			
	<hr/>			0	7	6

For every guardian admitted in court at the Rolls in term time, he receives a fee of 6 *s.* which he distributes as follows :

	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
To the usher -	0	1	0			
To the porter -	0	1	0			
To the Master of the Rolls' tipstaff	0	1	0			
To the usher of the hall, if in the two winter terms -	0	1	0			
His own fee -	0	2	0			
	<hr/>			0	6	0

But in *Easter* and *Trinity* terms, when the Master of the Rolls sits in the chapel, the usher of the hall has nothing out of any cause heard, or guardian admitted in term time, which increases this officer's fee 1 *s.* in each of the two articles for those terms only.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every witness examined <i>viva voce</i> , either at <i>Westminster</i> , or at the Rolls -	0	1	0
For every affidavit sworn before a Master in Chancery sitting in court -	0	0	6
For every prisoner brought into court by <i>habeas corpus</i>	0	2	6
At a general or private call of Serjeants-at-law, for every Serjeant then called -	0	6	8
On the admission of every Master in Chancery	0	6	8
For every deed acknowledged in court to be inrolled	0	1	0
From his Majesty's Attorney General a term fee of	1	10	0
From			

	<i>l.</i>	<i>s.</i>	<i>d.</i>
From his Majesty's Solicitor General a term fee of	1	0	0
This officer claims a privilege of setting down one cause every term to be heard before the Lord Chancellor, for which he is paid the usual fee of	1	0	0
He also claims the like privilege of setting down one cause each term, to be heard before the Master of the Rolls, for which he is paid the like fee of	1	0	0

## THE KEEPER OF THE COURT.

THAT the keeper of this court do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every cause heard at <i>Westminster-hall</i> , he receives from the party that prevails - - -	0	0	6
If an issue at law, or an account is directed, each side pays 6 <i>d.</i> - - -	0	1	0
For every guardian admitted in court at <i>Westminster</i> only - - -	0	0	6

## THE OFFICE OF CHIEF SECRETARY OF THE MASTER OF THE ROLLS.

THAT the said secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Out of the fees paid by every fix clerk and examiner, at their respective admissions to their offices	10	0	0
Out of the fees paid by every sworn clerk of the fix clerk's office, and clerk of the petty-bag office, at the times of their respective admissions to their offices	2	0	0
Out of the fees paid by every waiting clerk attending on the fix clerks, at the time of their respective admissions - - -	1	0	0
For entering the name of every under clerk, at the time of his entering into articles with any of the sworn clerks of the fix clerk's office, and the date of such articles - - -	1	0	0
For perusing every petition presented to the Master of the Rolls (except those of privileged persons and			

*paupers,*

*l. s. d.*

*paupers*, and for the setting down of causes to be heard by the Master of the Rolls, and for restoring of causes to the *paper* when struck out, and for adjourning or re-hearing of causes) writing the order upon it, and presenting the same to the Master of the Rolls for his approbation and signing, for every petition thus signed - - -

0 5 0

But though such petition shall pray several matters, or though it be in two or more causes between the same parties, or some of them, only one fee of 5 *s.* is to be taken, and no more.

THE UNDER SECRETARY OF THE ROLLS.

THAT the said under secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

*l. s. d.*

Out of the fees paid on the admission of every six clerk or examiner - - -

2 0 0

Out of the fees paid upon the admission of every sworn clerk of the six clerk's office, or clerk of the petty-bag office - - -

0 10 0

For perusing and writing the order upon and presenting to the Master of the Rolls for his approbation and signature of every petition preferred to him for the admission of a plaintiff or defendant to prosecute or defend *in forma pauperis*, for every such petition so signed by his Honor - - -

0 5 0

But if the petition be to prosecute in one cause, and defend in another, or in several causes, only one fee is to be taken.

*l. s. d.*

For entering the name of such cause or causes, and the order made on every such petition in a book kept for that purpose on every such petition signed by his Honor - - -

0 0 6

For entering the name of the cause or causes, and the order made on every other petition signed by his Honor, for which the chief secretary takes 5 *s.* and for perusing the order upon, and presenting such petition in the absence of the chief secretary

0 0 6

For

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For procuring to be answered and entering the order made on every <i>pauper</i> petition, after their first admittance			0 1 0
For the like on every petition preferred by any person intitled to the privilege of the court			0 1 0

## THE SECRETARY OF CAUSES AT THE ROLLS.

THAT the said secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For setting down a cause for hearing, and drawing and signing a note to the Register, certifying the same (other than for such causes as are set down by the respective officers having a privilege so to do)	1	0	0
The like fee for every petition for setting down a cause for re-hearing	1	0	0

For perusing and presenting every petition, and writing the order signed by his Honor for the purposes following, the several fees herein after mentioned; that is to say,

	<i>l.</i>	<i>s.</i>	<i>d.</i>
On every petition for setting down a cause to be heard at the Rolls, in order to have the bills taken <i>pro confesso</i>	1	0	0
On every petition for setting down a cause <i>ad requisition. defendentis</i>	1	0	0
On every petition for restoring a cause to the paper which has been struck out thereof	1	0	0
And if more than one cause to be struck out, then for such cause restored	1	0	0
But if any of the business aforesaid be done at the instance of a <i>pauper</i> or privileged person, then 5 <i>s.</i> only instead of one pound	0	5	0

For perusing and presenting every petition, and writing the order signed by his Honor, for the following purposes, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For setting down a cause upon a master's report, or upon an equity reserved, or for further directions	12	5	0



	<i>l.</i>	<i>s.</i>	<i>d.</i>
12 <i>s.</i> 6 <i>d.</i> and if two or more causes, the like fee in each cause	-	-	0 12 6
But if such petition be for a <i>pauper</i> or privileged person, then only	-	-	0 1 0
For perusing and presenting every petition, and writing the order signed by his Honour for adjourning a cause 10 <i>s.</i> and if the same be in two or more causes, the like fee in each cause	-	-	0 10 0
If a <i>pauper</i> or privileged person, then only 1 <i>s.</i> instead of 10 <i>s.</i>	-	-	0 1 0

THE OFFICE OF SECRETARY OF DECREES AND INJUNCTIONS AT THE ROLLS.

THAT the said secretary do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For presenting the docquet of every decree or dismissal pronounced by his Honour, to be signed by his Honour, in order to the enrolment thereof, and entering the name of the cause or causes, and the date of the decree or dismissal, and the time of signing the docquet by his Honour in a book kept for that purpose	-	-	0 2 6
For presenting to his Honour for his signing, and entering the docquet of every injunction granted by his Honour	-	-	0 2 0

And if a decree be made, or injunction granted in two or more causes wherein the same parties or any of them are concerned, but one fee for all.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For entering a caveat against the signing of any decree or dismissal, and giving notice to the parties concerned	-	-	0 5 0

### THE OFFICE OF CLERK OF THE CHAPEL AT THE ROLLS.

THAT the said clerk do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the search of the calendar book for every year	0	1	0
For the copy of all records in the chapel of the Rolls, for every sheet containing fifteen lines, and six words in each line	0	1	8
For every skin of parchment or vellum exemplified, including a fee of 6 <i>s.</i> 8 <i>d.</i> payable to the Master of the Rolls, for each exemplification	1	6	8

But in every such skin, there ought to be written at least sixteen sheets, each sheet computed at ninety words.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For every cancellation 10 <i>s.</i> whereof there is due to the Master of the Rolls 6 <i>s.</i> 8 <i>d.</i>	0	10	0
For the re-examination of every copy written out of the records in the Rolls, for every sheet	0	0	1
For the clerk's hand to all the copies taken from the Rolls	0	2	0
For the attendance with every record out of the Rolls, by order	1	0	0

### THE GENTLEMEN OF THE CHAMBERS ATTENDING THE MASTER OF THE ROLLS.

THAT the said gentlemen of the chambers do not demand or take any greater fees or rewards for the business done or to be done in this office, than the fees or rewards following, viz.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
In every cause heard by consent in the Rolls, in which a decree is made	0	16	0
For every cause heard at the Rolls after term	0	8	0

If the bill be wholly dismissed, the plaintiff is to pay nothing, but the defendant or defendants (if more than one) pay these fees;

fees; but if there be a decree for the plaintiff, either for the whole or any part of the demand, and the bill be dismissed as to the other part, then the plaintiff only is to pay them.

If an issue at law, or an account is directed, these fees are paid by both the plaintiff and defendant.

If there be more than one defendant in a cause, there is but one fee to be paid on the part of all the defendants, and if a cause be sent to a master to state any matter specially for the judgment of the court, and no decree pronounced, then no fee is to be paid until the cause comes on again on the master's report.

*l. s. d.*

Upon a re-hearing, the party who takes the deposit  
pays to the gentlemen of the chambers - 0 8 0

But if the deposit be ordered to be divided between the parties, then this fee is divided in like proportions.

*l. s. d.*

On every petition heard at the Rolls whereon an order is made - 0 5 0

Upon the admission of a guardian at the Rolls 0 5 0

Upon vacating a recognizance at the Rolls 0 5 0

Upon leaving any papers for his Honour's perusal in any cause depending, the party that leaves them pays to the gentlemen of the chambers 0 5 0

Out of the fees paid by every six clerk and examiner, upon their respective admissions, there is paid to the gentlemen of the chamber - 5 0 0

Out of the fees paid by every sworn clerk in the six clerks office, or clerk of the petty-bag, upon their respective admissions - 2 0 0

# THE USHER OF THE HALL AT THE ROLLS.

THAT the said usher do not demand or take any greater fees or rewards, for the business done or to be done in this office, than the fees or rewards following, viz.

*l. s. d.*

For every cause heard by consent at the Rolls, in which a decree is made - 0 2 0

For every cause heard in court at the Rolls after the term - 0 1 0

Which fee of 1 s. is paid by the same party, and in the same manner as the fee of 8 s. before mentioned is paid to the gentlemen of the chambers.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
On every cause heard at the Rolls in <i>Michaelmas</i> and <i>Hilary</i> terms, when the court sits in the Hall	0	1	0
On the admission of a guardian admitted in the hall at the Rolls in those two terms	0	1	0
Out of the fees paid by every six clerk or examiner, on admission	1	0	0

#### THE PORTER AT THE ROLLS.

THAT the said porter do not demand or take any greater fees or rewards for the business done or to be done, than the fees or rewards following, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Upon every cause heard by consent at the Rolls, wherein a decree is made	0	2	0
Upon the hearing of every other cause to be paid by the same persons, and in the same manner as the the usher's fee is paid	0	1	0
Upon every petition heard at the Rolls, whereon an order is made	0	1	0
Upon vacating every recognizance	0	1	0
Upon admission of a guardian	0	1	0
Out of the fees paid by every six clerk or examiner, upon admission	1	0	0
Out of the fees paid by every sworn clerk, in the six clerks office, or clerk of the petty-bag office on admission	0	5	0



# C O S T S

OF THE

## GENERAL PROCEEDINGS

IN

## C H A N C E R Y.

TAKING instructions	Disbursement			Agent			Solicitor		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
for bill -	0	0	0	0	0	0	0	6	8
Drawing bill in Chancery per fo. -	0	0	0	0	0	4	0	0	6
Ingrossing thereof per fo.	0	0	0	0	0	4	0	0	4
Parchment according to the size of the skin -	0	0	0	0	0	0	0	0	0
Duty to each skin -	0	2	0	0	2	0	0	2	0
Filing the same -	0	5	4	0	5	4	0	5	4
Copy for counsel per sheet	0	0	0	0	0	2	0	0	2
To counsel to peruse and sign (or according to length)	1	1	0	1	1	0	0	1	1
Attending him -	0	0	0	0	3	4	0	6	8
Close copy of bill per sheet	0	0	0	0	0	2	0	0	2
Filing bill -	0	5	4	0	5	4	0	5	4
Fee for every three defendants to clerk in court	0	3	4	0	3	4	0	3	4
Ditto from four to six defendants -	0	6	8	0	6	8	0	6	8
Subpœna to answer with two names -	0	5	6	0	5	6	0	5	6
Ditto with three names	0	6	0	0	6	0	0	6	0
Drawing petition of defendants residing within 10 miles of London, in order to make subpœna returnable immediately -	0	0	0	0	0	0	0	4	0
Paid at the Rolls answering the same -	0	5	6	0	5	6	0	5	6
Drawing up order -	0	4	6	0	4	6	0	4	6
Entering ditto -	0	1	6	0	1	6	0	1	6
Copy and service -	0	2	0	0	2	0	0	2	0
	L 13						Drawin		

	Disbursement			Agent			Solicitor		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Drawing and ingrossing affidavit of a defendant's residing within ten miles of <i>London</i> , duty and oath -	0	3	1	0	6	0	0	6	0
Filing affidavit -	0	4	6	0	4	6	0	4	6
Copy and service of subpoena on every defendant	0	0	0	0	0	0	0	5	0
Drawing and ingrossing affidavit of service of subpoena, stamp and oath in the country	0	3	1	0	0	0	0	7	0
Ditto in <i>London</i> -	0	3	1	0	5	6	0	5	6
Filing affidavit per sheet	0	0	8	0	0	8	0	0	8
Attachment of contempt	0	6	6	0	6	6	0	6	6
Costs on ditto -	0	10	0	0	10	0	0	10	0
If defendant be arrested	0	13	0	0	13	0	0	13	0
Proclamation and distringas	0	6	6	0	6	6	0	6	6
Costs on ditto -	1	1	0	1	1	0	1	1	0
Writ of rebellion -	0	19	10	0	19	10	0	19	10
Costs on ditto -	2	6	8	2	6	8	2	6	8
Paid returning each	0	2	0	0	2	0	0	2	0
Drawing affidavits of any length per fo. -	0	0	0	0	0	0	0	0	8
Paid for returning each	0	2	0	0	2	0	0	2	0
Distringas, debts, costs, and duty -	0	7	2	0	7	2	0	7	2
Entering appearance with register -	0	0	0	0	3	4	0	3	4
Dedimus to take answer	0	10	10	0	1	10	0	10	10
Dedimus special to plead answer on demurrer -	0	0	0	0	0	0	0	13	8
Taking instructions for answer	0	0	0	0	0	0	0	6	8
Drawing answer per sheet	0	0	0	0	0	4	0	0	6
Ingrossing per sheet -	0	0	0	0	0	4	0	0	4
Stamp for each skin -	0	2	0	0	2	0	0	2	0
Parchment according to length	0	0	0	0	0	0	0	0	0
Copy of answer for counsel, per sheet -	0	0	0	0	0	2	0	0	4
To counsel to peruse and sign	1	1	0	1	1	0	1	1	0
Attending him -	0	0	0	0	3	4	0	6	8
Close copy answer, per sheet	0	0	0	0	0	2	0	0	2
Drawing notice to take answer, copy and service -	0	0	0	0	0	0	0	9	2
Commissioners to take answer each (but if obliged to go a journey more)	0	0	0	0	0	0	0	6	8

Certificate

	Disbursement			Agent			Solicitor		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Certificate of answer come in	0	2	6	0	2	6	0	2	6
For a common injunction and stamps -	0	0	0	0	0	0	1	3	2
For a special one -	0	0	0	0	0	0	1	12	0
Office copy of bill and answer, per fo. -	0	0	11	0	0	11	0	0	11
Fair copy of bill, per fo.	0	0	0	0	0	2	0	0	2
Commission to examine witnesses	0	16	10	0	16	10	0	16	10
Joining in commission and attending striking commissioners -	0	0	0	0	0	0	0	6	8
Subpoena <i>ducens tecum</i> -	0	0	0	0	0	0	0	9	6
Serving witnesses each -	0	0	0	0	0	0	0	2	6
Drawing interrog. per fo.	0	0	0	0	0	0	0	0	8
Fair copy for counsel per fo.	0	0	0	0	0	0	0	0	2
Paid counsel to settle and sign, or according to length	1	1	0	1	1	0	1	1	0
Attending him thereon -	0	0	0	0	3	4	0	0	8
Each commissioner examining witnesses, per day	1	1	0	1	1	0	1	1	0
To each clerk ingrossing, ditto	0	10	6	0	10	6	0	10	6
Stamps and parchment (according to what used) -	0	0	0	0	0	0	0	0	0
Examining each witness at examining office, duty and oath	0	0	0	0	0	0	0	0	4
Solicitor attending each day	1	1	0	1	1	0	1	1	0
Copy and duty from office per sheet -	0	0	11	0	0	11	0	0	11
Every exhibit -	0	2	6	0	2	6	0	2	6
Rule for publication -	0	4	4	0	4	4	0	4	4
Setting down cause in paper	0	1	0	0	1	0	0	1	0
Setting down any cause at Lord Chancellor's -	1	0	0	1	0	0	1	0	0
Setting down cause at the Rolls on six clerks certificate	1	0	0	1	0	0	1	0	0
Ditto on equity receiv'd	0	12	6	0	12	6	0	12	6
Ditto as costs -	0	12	6	0	12	6	0	12	6
Ditto for further directions	0	12	6	0	12	6	0	12	6
Ditto papers in each cause left at the Rolls -	0	0	0	0	5	0	0	5	0
Drawing brief, per fo. -	0	0	0	0	0	2	0	0	2
Fair copy of each brief sheet	0	0	0	0	2	6	0	2	6
To counsel according to length	0	0	0	0	0	0	0	0	0

	Disbursement			Agent			Solicitor		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Attending counsel -	0	0	0	0	0	0	0	6	8
Attending the hearing so long as cause is in the paper, clerk, and solicitor -	0	0	0	0	6	8	0	13	4
Fees in court -	0	10	0	0	10	0	0	10	0
If a bill dismissed without costs, both plaintiff and defendant pay each court fees -	0	10	0	0	10	0	0	10	0
Fees on hearing a demurrer	0	10	0	0	10	0	0	10	0
Drawing order for the first side 3 <i>s.</i> for every other side 2 <i>s.</i>	0	0	0	0	0	0	0	0	0
Stamp for every four sides	0	1	6	0	1	6	0	1	6
The word decree in any order	0	12	0	0	12	0	0	12	0
The word dismissal -	0	10	0	0	10	0	0	10	0
Register entering order 1st side 1 <i>s.</i> 6 <i>d.</i> every other side 6 <i>d.</i>	0	0	0	0	0	0	0	0	0
Copy and service per order	0	0	0	0	0	0	0	2	0
If personal service on a clerk in court - -	0	0	0	0	0	0	0	2	6
If order special copy, per sheet	0	0	0	0	0	0	0	0	4
<i>Drawing a common petition</i>	0	0	0	0	0	0	0	2	6
Stamp - -	0	1	6	0	1	6	0	1	6
Answering by Lord Chancellor	0	10	0	0	10	0	0	10	0
Answer by the Master of the Rolls - -	0	5	6	0	5	6	0	5	6
For attendance petition at the Rolls - -	0	6	6	0	6	6	0	6	6
Copy of petition with order for attendance, per fo.	0	0	0	0	0	0	0	0	2
Drawing affidavit of service, duty and oath - -	0	3	1	0	4	6	0	6	6
Office copy of affidavit per fo. 2 <i>s.</i> first side, and 8 <i>d.</i> all other sides - -	0	0	0	0	0	0	0	0	0
Drawing charge and discharge before the Master, per fo.	0	0	6	0	0	6	0	0	6
Fair copy for the Master per fo.	0	0	0	0	6	0	0	0	6
Warrant, clerk and service	0	2	0	0	3	0	0	3	0
Attending every warrant	0	0	0	0	3	4	0	6	8
Office copy of Master's report, per fo. - -	0	0	0	0	0	0	0	0	6
For attending and settling de- fendant's report -	0	0	0	0	3	4	0	6	8
Subpœna to hear judgment	0	5	6	0	6	0	0	6	0
<i>Ne exeat regnum</i> -	0	15	4	0	15	4	0	15	4
<i>Habeas corpus</i> -	0	14	8	0	14	8	0	14	8

To



## COSTS.

501

	Disbursement			Agent			Solicitor		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
To counsel for every common motion -	0	10	6	0	10	6	0	10	6
For every notice of motion, copy, and service -	0	0	0	0	1	0	0	2	0
Attending counsel and court on every motion -	0	0	0	0	3	4	0	6	8
Fees in court on assigning guardian for an infant at Rolls	0	6	0	0	6	0	0	6	0
Ditto at Chancery -	0	10	0	0	10	0	0	10	0
Fees on hearing petition at Rolls	3	6	0	0	6	0	0	6	0
Ditto in court -	0	10	0	0	10	0	0	10	0
Drawing affidavit of service, copy, duty, and oath	0	0	0	0	0	0	0	5	6
Certificate of no cause shewn	0	1	6	0	1	6	0	1	6
Costs allowed on demurrer, if over-ruled -	0	0	0	0	0	0	5	0	0
Costs on excepting, if defendant submit to answer before making report	1	10	0	1	10	0	1	10	0
After report in town -	2	0	0	2	0	0	2	0	0
If answer by commissioners	2	10	0	2	10	0	2	10	0
If second answer be insufficient, defendant pays	3	0	0	3	0	0	3	0	0
If third answer (and so on)	4	0	0	4	0	0	4	0	0
A receipt from a master	0	2	6	1	2	6	0	2	6
Writ of execution of a decree, if long, <i>per</i> skin -	0	0	0	0	0	0	1	6	8
Copy of ditto <i>per</i> skin	0	0	0	0	0	0	0	5	0
Exemplification of ditto <i>per</i> skin	0	0	0	0	0	0	1	6	8
Exemplification <i>per</i> master <i>per</i> skin for every three skins	0	0	0	0	0	0	0	6	8
Dogetting <i>per</i> skin -	0	0	0	0	0	0	0	2	0
Signing <i>per</i> Lord Chancellor	0	10	0	0	10	0	0	10	0
Hanaper fee -	1	13	8	1	13	8	1	13	8
Bag-bearer -	0	5	0	0	5	0	0	5	0
Entering <i>caveat</i> -	0	5	0	0	5	0	0	5	0
Taking money out of court in other's hand <i>per</i> pound	0	0	2	0	0	2	0	0	2
A receipt for it -	0	2	6	0	2	6	0	2	6
Acknowledging a recognizance, every name	0	2	0	0	2	0	0	2	0
To the clerk -	0	0	6	0	0	6	0	0	6
Stamp -	0	2	0	0	2	0	0	2	0
Paid for filing the answer	0	0	0	0	0	0	0	0	0
Paid for oath of due receipt of answer -	0	1	0	0	1	0	0	1	0
Term-fee for every term business is done -	0	0	0	0	6	8	0	10	0

*Bill of Costs on a Motion.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Taking instructions to move - - -	0	6	8
Drawing notice of motion for executors to pay 400 <i>l.</i> out of the residue of the testator's estate, together with interest and costs, and fair copy thereof for counsel - - -	0	2	0
Two copies and service on plaintiff's and defendant's clerk in court - - -	0	4	0
Affidavit of service and duty - - -	0	6	1
Paid filing according to length			
Drawing brief on motion - - -	0	6	8
Fair copy for counsel - - -	0	2	6
To counsel therewith if special, (if a motion of course 10 <i>s.</i> 6 <i>d.</i> ) - - -	1	1	0
Attending him thereon - - -	0	6	8
Attending court on hearing motion - - -	0	6	8
Paid for order and entering according to length	0	6	8
Attending to pass order - - -	0	6	8
Coach-hire, &c. - - -	0	2	0
	<hr/>		
	<hr/>		

*Fees in Chancery on appointing a Guardian to consent to Marriage.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Taking instructions to proceed - - -	0	6	8
Drawing petition to his Honour the Master of the Rolls - - -	0	10	0
Fair copy to present - - -	0	5	0
Stamp and paper - - -	0	1	7
Paid answer and setting down for hearing at the Rolls - - -	0	6	6
Attendance to present the same - - -	0	6	8
	<hr/>		
	<hr/>		

Drawing

## COSTS.

503

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Drawing affidavit to support petition, ingrossing the same	0	5	7
Paid stamp and paper	0	5	7
Paid swearing the same	0	2	1
Attending thereon	0	1	6
Paid filing and for office copy	0	6	8
Drawing two briefs for counsel and fair copy	0	5	4
Paid counsel therewith where guardian don't attend *	0	10	0
Attending him thereon	2	2	0
Paid court fees on hearing	0	'6	8
Attending court thereon	0	6	0
Paid drawing up order by Register	0	6	8
Paid entering	1	0	0
Attending passing and entering the same	0	5	0
Letters and messengers	0	6	8
	0	2	0

*N. B.* There must be an affidavit, though no fortune to shew the repute of the guardian and other circumstances in the petition of having no fortune, &c.

\* If the guardian attend there need but one counsel, the guardian may consent for himself.

## SOLICITORS.

**I**N order to be admitted a solicitor of the high court of *Chancery*, the articulated clerk must procure the certificate of two gentlemen at the bar, and clerk in court, of his being qualified to practice, and affidavit must be made of seeing the certificate signed, both which, must be taken to the Master of the Rolls's secretary's office, in *Roll's Yard, Chancery Lane*, who will supply him with the proper form of them; and he must attend his Honour next morning after last day of term, who then sits in court for that purpose, to be sworn.

If party to be admitted a solicitor be an attorney, then he hath no need of certificate or affidavit, but must take his admission at law in lieu of them to his Honour's secretary as above directed.

*Costs on Admission of Solicitor in Town.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Stamp and paper for affidavit of seeing two counsel and clerk in court sign certificate of party's qualifications - - -	0	1	7
Paid swearing the same at public office, before Master, or at his house - - -	0	1	6
Oath in court before Master of the Rolls - - -	0	1	0
Paid his Honour's under-secretary - - -	0	5	0
But if secretary prepares certificate and affidavit - - -	0	10	6
So if admission be on a private day - - -	0	10	6
To clerk of petty bag, for getting solicitor's admission signed by his Honour, and for inrolling - - -	0	7	6

*N. B.* If the party applying to be admitted a solicitor hath not served his time to a solicitor, or in the fix clerk's office, but is admitted from being a sworn attorney-at-law, the two following additional items must be charged, *viz.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Paid for inrolling admission at law . . .	0	2	6
To clerk at warrant of attorney's office thereon . . .	0	1	0

*Admission of a Solicitor in the Country.*

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Stamp, paper, and oath as above - - -	0	3	1
Paid Master's clerk for admission - - -	0	5	0
Ditto, for his own fee - - -	0	7	6
To clerk of petty bag for enrolling admission - - -	0	2	1

AFTER February 5th, 1794, within the bills of mortality, and February 10th in any other part of England and Wales, the following additional stamp duties are to be paid. 34 G. 3. c. 14.

*s. 1.*

For every contract to serve as a clerk in order to admission as a solicitor or attorney in any court at *Westminster*, 100 *l.* And in order to admission into any court of *Great Sessions* in *Wales*, *Chester*, *Lancaster*, or *Durham*, or in any court in *England*, holding pleas, where the debt shall amount to 40 *s.* 50 *l.*

No



No such clerk shall be admitted unless the indenture be inrolled or registered with the proper officer appointed for that purpose, with an affidavit, within six months next after the execution thereof. *Ibid.* f. 2.

Every such clerk, previous to his being permitted to practise, must make an affidavit of the payment of the duty. *Ibid.* f. 3.

Clerks who have paid the duty shall not be subject to any duty for new contracts with other masters. *Ibid.* f. 8.

No person to act as solicitor unless admitted and inrolled according to stat. 2 G. 2. c. 23. on penalty of 50*l.* with treble costs. 22 G. 2. c. 46. f. 12.

Solicitors incapable of being justices of peace, during their practice. 5 G. 2. c. 18. f. 2.

Sworn solicitors acting as agents for persons not qualified, to be struck off the roll, disabled from practice, and to stand committed for twelve months. 22 G. 2. c. 46. f. 11.

Clerks to solicitors to cause affidavits to be made and filed, of the execution of their contracts. 22 G. 2. c. 46. f. 3, 5.

No person to be admitted a solicitor, before said affidavit read in court. *Id.* f. 4.

Clerk to be employed in business during service. *Id.* f. 8.

Notice of motion by unadmitted solicitor, irregular. 3 P. Wms. Rep. 104.

A sworn attorney may be admitted a solicitor. 2 G. 2. c. 23. f. 20.

Solicitors convicted of barrettry, subornation of perjury, &c. practising, liable to transportation. 12 G. 1. c. 29.

### *Proceedings for Fees.*

**N**O solicitor can maintain a suit for his fees and disbursements until one lunar month after delivery or leaving at party's house a bill, subscribed by him; and upon application of client to great seal, and his submission to pay same when taxed, bill to be referred for taxation, and on solicitor or client neglecting to attend, same to be taxed *ex parte*, and on non-payment thereof, to be attached; and in case of overcharge, and solicitor not refunding, he to be also attached: If bill be reduced a sixth part, solicitor to pay costs of taxation, if not, at discretion of court. 2 G. 2. c. 23. f. 23.

Solicitor carrying on suits in equity, for assignees of bankrupt, without authority of majority in value of his creditors, bankrupt estate not liable, but assignees personally.

Country client employs a solicitor in country, in a cause of chancery; solicitor employs clerk in chancery; client in country pays

pays solicitor, but clerk in chancery is unpaid; client not bound to pay him, but he may retain papers. 2 *P. Wms. Rep.* 460. *pl.* 145. *Barnard. Chanc.* 264, 265. 3 *Tr. Atk. Rep.* 727. *pl.* 279. 2 *Vez.* 111. *pl.* 42.

Six clerk not obliged to deliver papers to plaintiff, till fees paid, though plaintiff had paid his solicitor, who had satisfied clerk in court. 3 *Tr. Atk. Rep.* 727. *pl.* 279. 2 *Vez. Rep.* 121. *pl.* 42. *S. C.*

Solicitor decreed satisfaction out of profits of a term of years. 4 *Vin. Abr.* 103. *pl.* 18.

Ordered to be paid out of monies lodged in court for the benefit of infants, out of duty decreed to administrator, before bond creditors. *Mof. Rep.* 319. 3 *Tr. Atk. Rep.* 720. *pl.* 269.

Solicitors intitled to be paid out of fund, whether in suit, lunacy, or bankruptcy. 2 *Vez. Rep.* 407. *pl.* 131.

Whether solicitor can detain the papers of other persons as well as his own client's, being delivered him by his own client, till his demands are satisfied. See *Mof. Rep.* 12, 13.

Representative of client cannot revive an order to tax solicitor's bill, without submitting to pay the costs taxed. 2 *Tr. Atk.* 114. *pl.* 106.

Client cannot deduct a demand on his solicitor out of costs taxed. 2 *Vez.* 452.

Account not to be taken in equity after taxation of solicitor's bill of fees. 2 *Vez.* 452. *Com. Rep.* 612. *pl.* 263. 4 *Vin. Abr.* 103. *pl.* 20. 2 *Eq. Caf. Abr.* 524. *pl.* 6.

Solicitor's bill not being examined by anyone of the profession, and containing several extraordinary items, and heavy charges, though he had judgment thereon, and bill adjusted, settled, approved, and allowed *seven* years before, same referred to master to be taxed, and solicitor ordered to be examined on interrogatories, as to the several items thereof. 2 *Tr. Atk.* 295, *pl.* 213.

No money to be brought into court, on reference of solicitor's bill to be taxed by Master. *Mof.* 68. *pl.* 40.

On solicitor's death his representative need not deliver bill signed. 3 *Vin. Abr.* 308. *pl.* 7.

Solicitor in cause may retain papers received of his client, *previous* but not *subsequent* to his bankruptcy; and he is not obliged to come in under the commission. 7 *Vin. Abr.* 74. *pl.* 8. *Rayn. Read. on Stat.* 2 *G. 2. c.* 23. *p.* 71, 72.

*Stat.* 2 *G. 2. c.* 23. does not extend to bills of fees, &c. from one solicitor to another. 12 *G. 2. c.* 13. *f.* 6.

*A TABLE of the Days of hearing Causes, Motions, &c. before the Lord Chancellor and the Master of the Rolls.*

TERM-TIME.

*By the Lord Chancellor.*

Causés.	{	IN term time every <i>Monday, Tuesday, and Friday</i> , are days for hearing causes at <i>Westminster</i> by the Lord Chancellor.
Seal-days.	{	Every <i>Tuesday, Thursday, and Saturday</i> in term-time, are seal-days. Every <i>Wednesday</i> is a day for further directions.
Motions.	{	The first and last days of the term, are days for sealing writs and motions only. Every <i>Thursday</i> in term is a day for motions, except in the <i>first</i> or <i>last</i> week of the term, and then it is a day for causes. All the days in term, when the court sits, are days for common motions, which are moved after the causes are heard, just before the rising of the court.
Rehearing.	{	<i>Saturdays</i> , rehearings and petitions in bankruptcy.

VACATION.

Motions in the Vacation.	{	In the vacation, the general seal-days only, as appointed by the Lord Chancellor, are days for motions. No motions are heard <i>after</i> the last <i>general</i> seal.
Petitions.	{	The next day after the <i>last</i> seal, both <i>before</i> and <i>after</i> the term, is usually appointed for petitions.—There are also other days of petitions usually appointed by the Lord Chancellor.

*At the ROLLS.*

## TERM-TIME.

Causes.

{ In term-time, every *Monday Tuesday*, and *Thursday*, are days for hearing causes at the Rolls, by the Master of the Rolls in the afternoon.

## AFTER TERM.

Causes in the Vacation.

{ The first week *after* the term, the Master of the Rolls sits in the morning on causes, and towards the third seal, in the afternoon.

Petitions.

{ There is also a day of petitions at the Rolls after the term, which his Honour appoints.

Motions.

{ The next morning after the term, motions are made at the Rolls.



## THE RETURNS OF THE TERMS.

*Hilary Term.*

*This Term begins the 23d of January, and ends the 12th of February following; and hath four Returns.*

*For the writ.**For the label.*

- |    |   |   |   |                                       |
|----|---|---|---|---------------------------------------|
| 1. | { | In eight days after St. Hilary next ensuing.                                  | { | In eight days after St. Hilary.       |
|    | { | In eight days next ensuing after St. Hilary.                                  |   |                                       |
| 2. | { | In fifteen days after St. Hilary next ensuing.                                | { | In fifteen days after St. Hilary.     |
|    | { | In fifteen days next ensuing after St. Hilary.                                |   |                                       |
| 3. | { | On the morrow of the Purification of the Blessed Virgin Mary next ensuing.    | { | On the morrow of the Purification.    |
|    | { | In eight days after the Purification of the Blessed Virgin Mary next ensuing. | { | In eight days after the Purification. |
| 4. | { | In eight days next ensuing after the Purification of the Blessed Virgin Mary. |   |                                       |

*Easter Term.*

*This Term begins the Wednesday fortnight, or seventeen days after Easter-day, and ends the Monday next after Ascension-day; and hath five Returns.*

- |    |   |  |   |                                 |
|----|---|--|---|---------------------------------|
| 1. | { | In fifteen days after Easter next ensuing.               | { | In fifteen days after Easter.   |
|    | { | In fifteen days next ensuing after Easter.               |   |                                 |
| 2. | { | From the day of Easter next ensuing in three weeks.      | { | In three weeks after Easter.    |
|    | { | From the day of Easter in three weeks next ensuing.      |   |                                 |
| 3. | { | From the day of Easter next ensuing in one month.        | { | In one month after Easter.      |
|    | { | From the day of Easter in one month next ensuing.        |   |                                 |
| 4. | { | From the day of Easter next ensuing in five weeks.       | { | In five weeks after Easter.     |
|    | { | From the day of Easter in five weeks next ensuing.       |   |                                 |
| 5. | { | On the morrow of the Ascension of our Lord next ensuing. | { | On the morrow of the Ascension. |

## THE RETURNS OF THE TERMS.

*Trinity Term.*

*This Term begins the Friday next after Trinity Sunday, and ends the Wednesday fortnight after; and hath four Returns. [See 32 H. 8. c. 21.]*

- |    |  |  |
|----|--|--|
| 1. | { On the morrow the <i>Holy Trinity</i> next ensuing.  | { On the morrow of the <i>Trinity</i> .  |
| 2. | { In eight days after the <i>Holy Trinity</i> next ensuing.<br>In eight days next ensuing after the <i>Holy Trinity</i> .                      | { In eight days after <i>Trinity</i> .   |
| 3. | { In fifteen days after the <i>Holy Trinity</i> next ensuing.<br>In fifteen days next ensuing after the <i>Holy Trinity</i> .                  | { In fifteen days after <i>Trinity</i> . |
| 4. | { From the day of the <i>Holy Trinity</i> next ensuing in three weeks.<br>From the day of the <i>Holy Trinity</i> in three weeks next ensuing. | { In three weeks after <i>Trinity</i> .  |

*Michaelmas Term.*

*This Term by the Statute 16 Car. I. c. 6. begun the 23d of October, and ended the 28th of November; and had six Returns: But by Statute 24 Geo. II. c. 48. it begins 6th November, and endeth 28th, and is abridged to four Returns only.*

- |    |  |   |
|----|--|---|
| 1. | { From the day of St. <i>Michael</i> next ensuing in three weeks.<br>From the day of St. <i>Michael</i> in three weeks next ensuing. | { In three weeks after St. <i>Michael</i> . |
| 2. | { From the day of St. <i>Michael</i> next ensuing in one month.<br>From the day of St. <i>Michael</i> in one month next ensuing.     | { In one month after St. <i>Michael</i> .   |
| 3. | On the morrow of <i>All-Souls</i> next ensuing.  | On the morrow of <i>All-Souls</i> .         |
| 4. | On the morrow of St. <i>Martin</i> next ensuing.   | On the morrow of St. <i>Martin</i> .        |

O F F I C E R S  
OF THE  
COURT OF CHANCERY.

In MICHAELMAS TERM 1795.

---

*Lord High Chancellor of Great Britain.*

THE Right Honourable *Alexander Lord Loughborough.*

*Master or Keeper of the Rolls.*

Right Honourable Sir *Richard Pepper Arden, Knt.*

*Masters in Chancery.*

Right Honourable Sir *R. P. Arden.*

*Peter Holford, F. R. S.*

*William Graves,*

*N. Smith,*

*John Simeon,*

*Edward Leeds,*

*William Weller Pepys,*

*John Ord,*

*John Wilmot,*

*Alexander Popham,*

*John Spranger,*

} Esqrs.

*Accomptant General—Thomas Walker, Esq; Lincoln's-Inn Fields.*

*Clerks—T. Cracroft, E. Smith, J. Packinon, M. Robins.*

*Clerk of Crown Hon. John Yorke.*

*Deputy—Joseph Baldwin, Esq.*

M m 2

*First*

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*Second Clerk* —————.

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*Deputy*—John Adams.

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*Hanaper Office.*

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*Deputy—H. E. Church, Esq;*

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*Thomas Ayle, Esq; 2001.*

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*Examiner's Office.*

*Henry Filtcroft, Esq; Examiner.*

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*Copying Clerk under Mr. Filtcroft, S. Sawbey.*

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*Deputy—John Smith.*

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*Court Keeper—Robert Bloome.*

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*Officers to the Master of the Rolls.*

*Chief Secretary—C. Deaves, Esq;*

*Under Secretary—John Smith.*

*Train Bearer—T. Thomas.*

*Usher of the Court—Richard Cricket.*

*Deputy, ——— Hugh.*

*Tipstaff—Robert Appleyard.*



# A D D E N D A.

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## *Sale before the Master.*

ONE reported the highest bidder may be compelled to complete his purchase; and the practice is to confirm the report, and then if the purchaser is supposed to be responsible, to get an order to enquire whether the party can make out a good title; and if he can, to obtain an order upon the purchaser to complete his purchase; but if the purchaser is unable to complete his purchase, then, on the report being confirmed, it is moved to discharge him from the bidding. 2 *Anstruther's Rep.* in the *Exchequer*, 344.

## *Receiver.*

APPOINTMENT of a receiver is in the discretion of the Master, who need not state his reasons which induced him to make the appointment. 1 *Ves. jun.* 452.

There must be some substantial objection to induce the court to overturn the appointment. *Ibid.*

It is no objection to a receiver that he is a practising barrister: but the solicitor in the cause cannot be receiver. 2 *Ves. jun.* 137.

## *Patent.*

THERE must be separate bills upon distinct invasions of a patent: otherwise of a right of fishery or the custom of a mill. *Ibid.* 486.

The proprietor of a copyright must file separate bills against each bookseller taking copies of a spurious edition for sale. *Ibid.*

## *Guardian.*

A MOTION for leave to answer by guardian must name the guardian.

*Baron and Feme.*

IT is the practice of the court not to establish a deed between husband and wife on her separate estate without the presence of the wife in court, where the trustees put the parties to file a bill. 2 *Ves. jun.* 500.

*Trustee.*

MONEY in the hands of a trustee cannot be affected by legal execution, nor can equity interfere. 2 *Anstruther's Rep. in the Exchequer*, 381.

*Lunatic.*

A TRUSTEE found a lunatic by the Master's report cannot be ordered to convey under the statute 4 *Geo. 2. c. 10.* unless a commission of lunacy has issued. 2 *Ves. jun.* 587.

*Bankruptcy.*

AFTER judgment by default in an action upon a dividend under a commission of bankruptcy, the assignees filed a bill for discovery, and to have the proof of the debt expunged: demurrer allowed; the course being by petition. *Ibid.* 666.

N. B. In the course of bankruptcy it is usual to direct a bill to ascertain, whether a debt is due: but no bill can be filed after a dividend declared. *Ibid.*

*Interest.*

UPON a bill by executors to have the assets administered, no interest is to be allowed upon a judgment on assets *quando acciderint.* *Ibid.* 716.

No interest is allowed upon a judgment in an account before the Master, or in an action upon it. *Ibid.*

*Sequestration.*

A SEQUESTRATION only goes where the party is in the custody of the warden of the *Fleet*, not of a sheriff; therefore a *habeas corpus* must be obtained in order to have the party committed to the *Fleet.* 2 *Anstruther's Rep. in the Exchequer*, 579.

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*Certificate**Disj**Disj**Docu**Exam**Except**Execu*

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